

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1590 OF 2014**

Mr. Kundalik Daji Ghodke

Petitioner

Vs

The Currency Collector,
Prant Office, Solapur and Ors

.. Respondents

Ms. Geeta Mulekar, Advocate for Petitioner.
Mr.S.D.Rayrikar, A.G.P for respondents no.1 and 2.

CORAM : R.G.KETKAR,J.
DATE : 10/09/2015

PC:

1. Heard Ms. Geeta Mulekar, learned counsel for the petitioner and Mr. S.D.Rayrikar, learned A.G.P for respondents no.1 and 2 at length.

2. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 12.9.2013 passed by Collector of Stamps. By that order, respondent no.1 has revoked the petitioner's stamp vendor's license no.11/2000 issued on 29.12.2000.

3. In support of this petition, Ms Mulekar strenuously contended that respondent no.1 has invoked section 63 of the Maharashtra Stamp Act. Section 63 provides for penalty on account of breach of rule made under Section 69. It lays down that any person appointed to sell stamps who disobeys any rule made under section 69, among others, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which may extend to five thousand rupees. In the

present case, the petitioner is not convicted though separate FIR is registered against the petitioner. She, therefore, submitted that the premise on which the impugned order is passed, is not in existence and consequently impugned order is liable to be set aside. She submitted that Section 63 is wholly inapplicable in the present case. Even otherwise, by the impugned order, excessive penalty is imposed on the petitioner. She further submitted that in pursuance of the impugned order, the petitioner's stamp vendor licence is cancelled. She submitted that in case the Court is not inclined to interfere with the impugned order, liberty may be reserved to the petitioner to apply for licence in future and appropriate direction may be issued to respondents to consider the petitioner's application in accordance with law, in the event the petitioner applies for licence without prejudice to his rights and contentions,

4. On the other hand, Mr. Rayrikar supported the impugned order. He has invited my attention to reply of the petitioner dated 7.8.2013. The petitioner admitted breach of Rule 13(1) of the Bombay Stamps Supply and Sales Rules, 1934 (for short, 'Rules'). He further submitted that respondent no.1 has invoked Rule 10 of the Rules while revoking the licence. He further states that presently the State Government has taken a policy decision not to grant any licence. He further states that in case, in future there is any change in the Government policy and Government decides to issue licences and in case the petitioner applies, his

application will be considered on its own merits and in accordance with law. Statement of Mr. Rayrikar is accepted.

5. I have considered the rival submissions made by the learned counsel appearing for the parties. I have also perused the material on record. Perusal of the impugned order shows that respondent no.1 has issued notice dated 31.7.2013 to the petitioner calling upon him to give explanation. In pursuance thereof, on 7.8.2013 the petitioner gave reply and admitted breach of Rule 13 of the Rules. After considering the reply, respondent no.1 came to the conclusion that the petitioner has committed breach of the Rules and accordingly revoked the licence in exercise of powers under Rule 10 of the Rules.

6. After considering the material on record, I do not find that respondent no.1 has committed any error in passing the impugned order. No case is made out for invocation of powers under Article 227 of the Constitutions of India. However, without prejudice to the rights and contentions of the petitioner, in case the State Government decides to issue licence and the petitioner applies for the same, his application will be considered on its own merits in accordance with law. Statement to that effect made by Mr Rayrikar is recorded. Subject to above, Petition fails and the same is dismissed.

(R.G.KETKAR, J.)