

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7381 OF 2014

Mr. Tarkeshwar Varma

.. Petitioner

Versus

State of Maharashtra and another

.. Respondents

Mr. J. S. Chandnani, for the Petitioner.

Mrs. M. S. Bane, AGP for the Respondent Nos.1 and 2.

CORAM : R.M. SAVANT, J.

DATE : 08th JUNE, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 10.06.2014 passed by the Appellate Authority i.e. the then Hon'ble Minister of State for Home, Government of Maharashtra by which order the Appeal filed by the Petitioner against the order dated 30.01.2013 passed by the Licensing Authority i.e. Deputy Commissioner of Police (HQ-1) came to be dismissed.

2. The Petitioner was issued a licence for running a Video Center under the provisions of the Bombay Cinemas Regulation Act, 1953. The gravamen of the allegation against the Petitioner was two fold namely that on the basis of one licence, the Petitioner was conducting Video Center in

two premises. One on the ground floor and one on the mezzanine floor. The second allegation was that the Petitioner was showing obscene films which was found when a raid was conducted on the Petitioner's premises. The Petitioner has also been criminally prosecuted under the relevant provisions. However, in so far as the present proceedings are concerned, the Licensing Authority has passed an order suspending the Petitioner's licence for a period of 60 days for violation of the provisions of the said Bombay Cinemas Regulation Act, 1953 and especially Section 7(1) thereof. It is sought to be contended by the Learned Counsel for the Petitioners relying upon the judgment of a Learned Single Judge of this Court reported in **1996(3) Bom.C.R. 714** in the matter of **Kana Nagu Mhatre Vs. The Assistant Commissioner of Police and another** and order of the **Division Bench of this Court dated 12th October, 2006 in Writ Petition No.5675 of 2006** that the pendency of the criminal prosecution cannot be taken into consideration by the authority while suspending the licence in question. In the instant case, it is required to be noted that the order passed by the Licensing Authority has been preceded by a show-cause notice issued to the Petitioner dated 08.01.2013. The Petitioner replied to the show-cause notice vide his reply dated 18.01.2013 and thereafter an order came to be passed by the Licensing Authority on 30.01.2013 and thereafter the Appeal filed by the Petitioner before the

Appellate Authority came to be dismissed by the impugned order. The allegations against the Petitioner has been adverted to herein above. The Licensing Authority in my view was within its right to suspend the licence if it has come to a conclusion that the affairs under the licence are not being conducted as required by the provisions of the said Act. It seems that the instant case is not the first time that the Petitioner was found to be violating the terms of the licence. The Appellate Authority has rightly come to a conclusion that the criminal prosecution and the order passed by the Licensing Authority stand on a different footing. In my view the judgments and order (supra) relied upon by the Petitioner would have no application in the facts of the present case.

3. Having regard to the nature of the allegations made against the Petitioner and also having regard to the fact that the Licensing Authority has deemed it appropriate to suspend the licence of the Petitioner for a period of 60 days. No interference is called for in the Writ Jurisdiction of this Court. The Writ Petition is accordingly dismissed.

4. At this stage, the Learned Counsel for the Petitioner applies for stay of the instant order. In the facts and circumstances of the case, the said prayer is rejected.

[R.M. SAVANT, J]