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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9650 OF 2014

Deepak Eaknath Fulambrikar

...Petitioner

Versus

The Secretary, Home Department (Special),
Mantralaya, Mumbai & Ors.

...Respondents

Mr. Rajesh Shivaji Jadhav, for the Petitioner.

Mr. V.S. Gokhale, AGP, for Respondent Nos. 1 to 3.

CORAM: A. S. OKA & G.S. PATEL, JJ.

DATED: 10th December 2015

PC:-

1. Heard the learned counsel appearing for the Petitioner. The learned AGP waives service for the Respondents.

2. Considering the narrow controversy involved in the Petition, the same is forthwith taken up for final disposal.

3. The Petitioner applied for grant of a license to engage in the business of Security Guards in accordance with the provisions of the Private Security Agencies (Regulation) Act, 2005 (for short 'the said Act'). By order dated 23rd May 2013, the application was rejected. Being aggrieved by the said order, the Petitioner filed an Appeal under Section 14 of the said Act before the State Government. By the impugned order dated 13th February 2014, the Appeal has been dismissed mainly on the ground that as the

Petitioner has business activities at Jalna, he is residing at Jalna and, therefore, he may not be in a position to properly look after the business of running Security Agency at Ulhasnagar.

4. The learned AGP pointed out that in terms of the report dated 1st February 2013 of the Deputy Commissioner, Zone-4, Ulhasnagar, the Petitioner has not made procedural compliances. A copy of the said letter dated 1st February 2013 is already placed on record, in which seven items have been set out. The learned counsel appearing for the Petitioner states that the Petitioner will comply with all the requirements.

5. Perusal of the order of the Appellate Authority shows that mainly the Appeal has been dismissed on the ground that as the Petitioner is a resident of Jalna, he will not be able to look after the business at Ulhasnagar. The police report dated 1st February 2013 merely mentions that the Petitioner is residing at Jalna from time to time for looking after his business commitments at Jalna. In our view, that is no ground to disqualify the Petitioner. If the Petitioner has complied with all the terms and conditions on which a license can be granted under the provisions of the said Act and the Rules framed therein, the license cannot be denied to the Petitioner only on the ground of his business commitments at Jalna and that he is residing at Jalna. Therefore, both the impugned orders will have to be quashed and set aside. The Licensing Authority will have to be directed to consider the application of the Petitioner afresh.

6. Accordingly, we dispose of the Petition by passing the following order:

- (a) The impugned orders are quashed and set aside. The Application dated 10th August 2010 made by the Petitioner is restored.
- (b) We direct the 2nd Respondent to reconsider the application dated 16th August 2010 filed by the Petitioner;
- (c) Appropriate decision shall be taken on the application made by the Petitioner as expeditiously as possible and preferably within a period of two months from the date on which an authenticated copy of this order is produced before the 2nd Respondent;
- (d) Needless to state that the 2nd Respondent shall grant reasonable time to the Petitioner to comply with all the procedural requirements;
- (e) We make it clear that the Petitioner will be entitled to the license provided he fulfils all the requirements of law. We also make it clear that the license shall not be denied to the Petitioner only on the ground that he is a resident of Jalna;
- (f) Rule is partly made absolute in above terms with no order as to costs.

(G. S. PATEL, J.)

(A. S. OKA, J.)