

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

**WRIT PETITION NO.9111 OF 2011****Smt.Shaikh Shamim Maqbul Vs. The State of Maharashtra and another.**

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders |
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Mr.M.D.Shinde, advocate for the Petitioner.  
Mr.S.M.Ganachari, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND  
K.K.SONAWANE, JJ.**  
**Date : 30.06.2016.**

**PER COURT :**

1. Heard.
2. The petitioner has applied for the grant of license under the Rules For Licensing and Controlling Places of Public Amusements (Other than Cinemas) and Performances For Public Amusement, including Cabaret Performances, Discotheque, Games, Pool Game Parlours Amusement Parlours Providing Computer Games, Virtual Reality Games, Cyber Cafes, Games With Net Connectivity, Bowling Alleys, Card Rooms, Social Clubs, Sports Clubs, Melas and Tamashas 1960. The petitioner intended to start Sanskrutik Loknatya Kala Kendra. The application for grant of license is

rejected vide order dated 29.8.2011.

3. Mr.Shinde, learned counsel for the petitioner submits that the petitioner had complied with all the requirements of the Rules 1960. However, only on the ground that the villagers have taken objection and that Sakhar Karkhana had not given No Objection has rejected the application. The learned counsel submits that though initially villagers had taken objection, subsequently the villagers have communicated the Tahsildar about their No Objection for the petitioner to start the said Sanskrutik Loknatya Kala Kendra. The learned counsel submits that there is no provision under the Rules to obtain No Objection of the Sakhar Karkhana. Even the Grampanchayat and Gramsabha has passed Resolution supporting the cause of the petitioner. In the affidavit erroneous statement is made that there is a School nearby. Even Circle Officer has given his report. All these aspects have not been considered.

4. Mr.Ganachari, learned A.G.P. submits that the permission to start the cultural centre could not have been granted as a matter of course. The villagers of village Sakhara have made representation and taken objection for giving permission to the petitioner. The representation dated 8.12.2009 stating that villagers have withdrawn their earlier objection is signed only by two persons. The learned A.G.P. further states that the petitioner has not taken Commercial Non-Agricultural permission from the competent

authority.

5. The order rejecting the application does not state that the permission is refused on account of non-submission of Commercial Non-Agricultural permission. The grounds can not be substantiated by affidavit. The order also nowhere states that the subsequent representation dated 8.12.2009 is received by him and is signed by only two persons. It is for the first time in affidavit-in-reply the same is stated. The reasons in the order can not be supplemented by way of affidavit as is held by the Apex Court in the case of **“Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and others”** reported in **AIR 1978 Supreme Court 851.**

6. It was for the authority to consider the Rules of 1960 while entertaining the application for grant of permission. As all these aspects were not considered, we set aside the impugned order and remit the matter back to the authority. The authority shall reconsider the application of the petitioner for grant of license as prayed in the application after considering all the relevant aspects of the matter. The petitioner may present herself before the authority to put forth her stand. The decision shall be taken by the authority in this regard expeditiously, preferably within six (6) months.

7. The Writ Petition is accordingly disposed of. Rule disposed of. No costs.

**( K . K . SONAWANE , J . )**

**( S . V . GANGAPURWALA , J . )**

Dt.30.06.2016.  
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