

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11767 OF 2015

Sunil Prakash Patke

.. **Petitioner**

Versus

The State of Maharashtra,
Through Secretary,
Department of Home Ministry,
Mantralaya, Mumbai-32 and another

.. **Respondents**

Shri Amol K. Gawali, Advocate for the Petitioner.
Shri S. M. Ganachari, A. G. P. for Respondents.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 14TH JULY, 2016.

PER COURT :-

1. Mr. Gawali, the learned counsel for the Petitioner submits that, the application of the Petitioner seeking license for permit room has been rejected on the ground that the same is in conflict with the rules under the National Highway Act, 1956. According to the learned counsel Section 33 of the Bombay Police Act, 1951 has been deleted and the rigours of the said section which is already deleted would not apply. The same is deleted with effect from 22nd December, 2015.

2. Mr. Ganachari, the learned A. G. P. submits that, as the site where the Petitioner desire to start the permit room was within the distance of 37 meters from central line of the national highway, the application was rightly rejected. The site of the

Petitioner was at a distance of 18 meter from the central line.

3. We have considered the submissions.

4. Subsequent to the rejection of the application of the Petitioner amendment has been made thereby deleting Section 33 of the Bombay Police Act, 1951. In light of that, the requirements as detailed in the said section would not be now required.

5. The learned counsel for the Petitioner has relied on the circular dated 1st February, 2005 stating that the rigours of the distance to be maintained from the central line in respect of national highway would not apply to the sites situated within the municipal limits. According to the Petitioner the site of the Petitioner is in cantonment limits and the same is also exempted.

6. In view of the subsequent deletion of Section 33 of the Bombay Police Act, 1951 it would be appropriate for the Respondent to consider the application of the Petitioner for start of permit room afresh on its own merits so also shall consider circular dated 1st February, 2005 and such other circulars issued from time to time in this regard. The impugned order as such is quashed and set aside. The authority shall decide the application of the Petitioner afresh as observed above expeditiously and preferably within six (6) months.

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

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]