

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6526 OF 2016

Atul Krishna Garad .. Petitioner

vs.

The State of Maharashtra & Ors. .. Respondents

Mr. Vijay R. Garad for the petitioner

Ms. Vaishali Nimbalkar, A.G.P. for the State

CORAM : K. K. TATED, J.

DATE : OCTOBER 19, 2016

PC.:

1 Heard the learned counsel for the parties.

2 By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 5.5.2016 passed by learned Divisional Commissioner, Pune Division, Pune in Appeal No.1 of 2016 confirming the order passed by learned Additional Collector, Solapur on 29.1.2016 in 2014/DCB/4/PK.218/RR/180/2016 canceling the petitioners license issued as per Explosives Act, 1884 and Rules 2008 on the ground that the petitioner's factory is in gauthan area Gat No.249/2 of Taldulwadi Taluka Barshi District Solapur.

3 The learned counsel for the petitioner placed on record a certificate dated 13.10.2016 issued by the Tahsildar stating that the Gat

No.249/2 in which the petitioners factory is situated is not in the gauthan area.

4 The learned counsel for the petitioner submits that the learned Collector as well as the Divisional Commissioner took action for cancellation of his license on the basis of complaint filed by Sou.Prabhavati Sahjan Nagtilak. He submits that the said complainant is not resident of Tandulwadi, Taluka Barshi, Dist. Solapur. In support of that advocate for petitioner placed on record a certificate issued by Gram Panchayat dated 12.2.2016. He submits that both these facts were not considered by the authority at the time of passing impugned order. He submits that petitioner's license was valid upto 31.3.2015. He submits that petitioner filed renewal application in the office of the Collector, Solapur in the month of January 2016. The same is pending for taking appropriate steps by the Collector. He submits that this Hon'ble Court be pleased to direct the authority to take decision on his application with immediate effect.

5 On the other hand, the learned A.G.P for the respondent submits that the authority has considered the situation in which it is necessary in the interest of public to close down the petitioner factory. She further submits that in respect of petitioner factory, National Green Tribunal, Western Zone Bench, Pune passed order on 5.1.2016 in Application No.99 of 2015 (WZ). In that order, the Tribunal specifically recorded that the petitioner have to comply the rules and regulations and also to take No-Objection Certificate from the Maharashtra Pollution Control Board. Therefore, there is no question of setting aside the impugned orders.

6 Considering the submission made by the learned counsel for the petitioner, certificate issued by the Tahsildar dated 13.10.2016 stating that Gut No.274 / 2 is not in gauthan area and as application filed by the petitioner for renewal in the month of January 2016 is pending in the office of the Collector and as petitioner is not pressing the present petition and seeking the order to direct the Collector to decide his application for renewal on its own merits within stipulated time, following order is passed:

- a) Collector, Solapur and or Additional District Collector, Solapur with whom the petitioner has made application for renewal in the month of January 2016 is directed to decide the petitioner's application as early as possible after giving hearing to both the sides.
- b) With these direction, Writ Petition stands disposed of.

Parties to act on authenticated copy of this order.

JUDGE