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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6316 OF 2016

Rambo Circus ... Petitioner

Versus

Animal Welfare Board of India Chennai
& Ors. ... Respondents

Mr. Vishwajeet Sawanta/w Mr. V.V. Pai for the petitioner.

Mr.Vijay Kantharia a/w Mr.Anil Yadav for respondent nos.2 and 3.

Ms. M.P.Thakur, AGP for the State.

Mr.Udyan Shah i/by Veena Dalal & Co. for respondent no. 1.

**CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.
DATED : JUNE 15, 2016.**

P.C.

Parties through their counsel.

2. By filing this petition, the petitioner has challenged the order dated 20th April, 2016 (Exh.R) passed by the first respondent whereby petitioner's registration certificate issued to it under the Performing Animals Registration Rules, 2001 and Prevention of Cruelty to Animals Act, 1980 has been cancelled/revoked. According to petitioner, respondent no. 1 before passing the impugned order had issued show cause

notice on the old address of the petitioner and as such the petitioner did not receive the same. It is also the case of the petitioner that thereafter the alleged notice of fixing the date of the matter for personal hearing has also not been received by the petitioner as it was also sent on the previous address of the petitioner. It is the case of the petitioner that the change of its address was already informed to respondent no. 1 on 6.10.2014 still notice was issued on the old address and no notice on the changed address was issued to the petitioner and as such the order has been passed without notice in violation of the principles of natural justice. He submits that had the petitioner been given appropriate notice of hearing, petitioner would have satisfied the respondent no.1 that the petitioner has not committed any illegality warranting action of suspension and/or revocation/cancellation of the registration certificate. It is also the case of the petitioner that the first respondent was aware of the change of address as the respondent no.1 had issued letter on 21.2.2006 to the Superintendent of Police Nasik and District Collector, Nasik by endorsing a copy to the petitioner on its changed address. In the circumstances, according to the petitioner the entire action of respondent no. 1 being in violation of principles of

natural justice and is therefore, liable to be set aside.

3. On the other hand learned counsel for respondent no.1 submits that it was the duty of the petitioner to have informed the change of address as provided under the Performing Animals Registration Rules, 2011 and having not done so, respondent no. 1 cannot be blamed for not issuing the show notice and further notices to the petitioner on its changed address.

4. Having considered the submissions made by the learned counsel for the parties and having gone through the correspondence and more particularly letter dated 21.02.2006, it is clear that the respondent no.1 was aware of the change of address and therefore, It is not open for respondent no. 1 to take a plea that the petitioner has not informed the change of address to respondent no. 1 in the prescribed format.

5. In the circumstances, we find that there is clear violation of principles of natural justice as the impugned order has been passed without serving notice to show cause and regarding fixing the date of personal hearing on the petitioner. As a

result, we set aside the impugned order and direct respondent no. 1 to take fresh decision after issuing fresh show cause notice to petitioner on its present address. On receipt of such show cause notice, the petitioner to file reply of the same within the time as may be stipulated in the said show cause notice. Thereafter respondent no.1 shall give opportunity of hearing to the petitioner and pass a fresh reasoned order as expeditiously as possible. In so far as relief claimed by the petitioner for release of the animals, it is not in dispute that the petitioner has already approached the Judicial Magistrate, Pimpri, Pune and the matter is fixed for hearing on 17th June, 2016. In the circumstances, when the matter is seized over by the learned JMFC we are not inclined to pass any order to that effect. The learned JMFC shall consider and decide the application on its own merits in accordance with rule. Needless to say that in view of the setting aside of the order of cancellation/revocation of registration, all earlier orders passed by the first respondent suspending the petitioner's licence also stands set aside.

6. Interim order passed by this Court on the earlier date shall continue and it will be subject to the outcome of the

order that may be passed by the learned Judicial Magistrate, First Class, Pimpri, Pune. In case the order passed by the JMFC is adverse to the interest of the petitioner, the interim order passed by this Court will continue for the further period of ten days from the date of the order as may be passed by the JMFC enabling the petitioner to seek appropriate legal remedy as may be available. Writ Petition is accordingly disposed of.

(MAKARAND KARNIK, J.) (SHANTANU KEMKAR, J.)