

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7954 OF 2014

Mr.Anil Lakhmichand Dusseja .. Petitioner

Vs.

State of Maharashtra,
through Home Department and another .. Respondents

Mr.J.S.Chandnani, for the Petitioner.
Mr.A.R.Metkari, AGP for State- Respondents.

CORAM : M.S.KARNIK, J.
DATE : 16th APRIL, 2016

P.C. :

. Heard Mr.J.S.Chandnani, learned Counsel for the petitioner and Mr.A.R.Metkari, learned AGP for respondents.

2. The petitioner by this Petition challenges the order dated 10/06/2014 passed by the Hon'ble Minister of the State (Home) by which the Appeal filed by the petitioner against the order dated 07/10/2013 passed by the Assistant Police Commissioner (Administration) was rejected.

3. The petitioner by an application dated 24/04/2012 had applied to the police Commissioner, Thane for grant of a video game

parlour licence. By an order dated 22/07/2013, respondent No.2 was pleased to reject the application on the ground that there is a Kapileshwar Mahadev Mandir within the vicinity of 75 meters from the video game parlour for which the licence was sought.

4. The petitioner filed an Appeal before respondent No.1. Respondent No.1 by the impugned order dated 10/06/2014 was pleased to reject the Appeal on the ground that there is a Kapileshwar Mahadev Mandir which is within the radius of 75 meters from the parlour in respect of which the licence is sought.

5. The learned Counsel for the petitioner contended that respondent No.2 and the Hon'ble Minister of the State have not taken into consideration the contention of the petitioner that there is a beer bar shop in the vicinity of the said temple within a radius of 75 meters and therefore, the respondents were not justified in rejecting the request made by the petitioner. Learned Counsel for the petitioner further relied upon the decisions of this Court passed in Writ Petition No. 6078 of 1995 dated 26/04/1996 and in Writ Petition No. 1031 of 1992 dated 22/06/1992 to contend that the impugned order suffers from non- application of kind.

6. Upon going through the impugned order, I find that the contention raised by the petitioner that there is already a beer bar

shop running within the vicinity of the said temple has not been dealt with by the Authorities below. In this view of the matter, I am inclined to remand the matter back to respondent No.1 for a fresh consideration of the Appeal bearing No. PPE-1113/PK.411/VISHA-5 filed by the petitioner on its own merits without being influenced by any of the observations made in this order. All the contentions of the parties on merits are kept open.

7. An endeavour shall be made by respondent No.1 to decide the Appeal as early as possible and in any case, within a period of 10 weeks from the date of receipt of this order. The petitioner to appear before the Hon'ble Minister of State on 29/04/2016. Thereafter, the Hon'ble Minister is requested to fix the schedule of hearing of the Appeal. Writ Petition is accordingly disposed of.

(M.S.KARNIK, J.)