

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION (L) NO.60 OF 2015
IN
WRIT PETITION NO.2673 OF 2008

...

Anand Narayan Shetty

...Petitioner

v/s.

State of Maharashtra & ors.

...Respondents

...

Mr.Niranjan P. Shimpi for the Review Petitioner.

Ms.Geeta Shastri, Addl.GP for the State.

...

CORAM : A.A. SAYED, J.

DATED : 21 MARCH 2016

(IN CHAMBER AT 2.45 PM.)

P.C.:

The above Review Petition has been filed by the Petitioner impugning and seeking review of the order dated 20 February 2015 passed by me.

2. Learned Counsel for the Review Petitioner submitted that the penalty for contravening the Rules under Section 33 is provided under Rule 131(v) and maximum punishment of fine of Rs.50/- for breach of license condition is provided and the said Section does not provide for cancellation or suspension of license and therefore the order passed by Respondent No.2 suspending the license for two months is illegal and ultravires. He further submitted that the alleged breaches were detected in July 2007 and February 2008, however in spite of the same, the Respondents renewed the license of the Petitioner and therefore the Respondents are prohibited from suspending such freshly renewed license

for alleged breaches prior to its renewal. Learned Counsel for the Petitioner submitted that in identical several matters, said Respondent No.2 has suspended the license for 3 to 7 days, whereas suspension of 60 days awarded to the Petitioner is totally unjust and discriminatory. Learned Counsel submitted that the Petitioner has already been punished by forfeiting deposits as well as penalizing by fine. In such circumstances the Respondents are not justified in punishing the Petitioner again for the same alleged cause/offence thereby suspending the license when already the Petitioner is being punished for alleged offences by forfeiture of deposits and fine. Learned Counsel for the Petitioner submitted that the doctrine of double jeopardy and the other contentions raised by the Petitioner have not been considered in the impugned order. He further submitted that from 1 April 2016 there is no requirement of even obtaining any license as per policy of the State Government. The learned Counsel submitted that there is an error apparent on the face of the record and therefore the impugned order needs to be reviewed and the Writ Petition is required to be allowed. Learned Addl.Government Pleader, on the other hand, submitted that no case for review is made out.

3. Learned Counsel for the Petitioner also submitted that 60 days suspension is very harsh and disproportionate. On instructions from the Petitioner who is present, the learned Counsel has fairly stated that the Petitioner is agreeable to keep his establishment closed for a period of five weeks in stead on 60 days.

4. I have heard the learned Counsel for the Review Petitioner and the learned Addl.GP.

5. Considering the contentions raised on behalf of the Review Petitioner and in the facts and circumstances of the case, in my view the Review Petitioner is not wrong in pointing out that certain aspects of the case have remained to be considered in the impugned order and in the interest of justice I am inclined to entertain the present Review Petition and pass the following order:

O R D E R

(i) The impugned order dated 20 February 2015 shall stand modified to the extent that in stead of 60 days' suspension of the license, the period of suspension shall be for a period of five weeks.

(ii) The statement of the learned Counsel for the Petitioner is recorded that the Petitioner shall keep his establishment closed from 18 April 2016 to 23 May 2016.

(iii) The Review Petition is disposed of in the aforesaid terms.

(A.A. SAYED, J.)