IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 WRIT PETITION NO. 3793 OF 2017

M A SHAHED M A MAJEED
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for Petitioner : Kasliwal Anil H.
AGP for Respondents: S.R. Yadav Lonikar
...

CORAM : P.R. BORA, J.
DATE : 04-04-2017.

P.C. :

1. Heard the learned counsel appearing for the petitioner and the learned A.G.P. appearing for the state-authorities.

2. The CL-III license in the name of the petitioner has been suspended by the Collector, Nanded (Respondent no.3) vide order dated 17.02.2017. The license has been suspended mainly on the ground that a criminal case is pending against the petitioner. The petitioner has preferred an appeal against the said order under the provisions of the Maharashtra Prohibition Act and the same is pending for consideration. The learned counsel appearing for the petitioner submitted that, the impugned action is ex-facie unsustainable, since the petitioner has not been convicted in the offences charged against him. The learned counsel has placed his reliance on the judgment of this Court in Writ Petition No. 7271 of 1999 in the case of **Dilip J. Bhatia Vs. The Commissioner of Police, Thane**.

3. The learned counsel for the petitioner further submitted that, since the appeal and the application for interim relief has not been heard by the Commissioner, the petitioner was constrained to approach this Court. The learned counsel has prayed for directing the respondent authorities to temporarily suspend the execution of the impugned order, till the decision of the appeal before the Commissioner.

4. The affidavit in reply on behalf respondent nos. 2 and 3 is taken on record. The learned A.G.P. invited my attention to the contentions raised by the respondents in para nos. 3 and 4 of the affidavit in reply which read thus:

> 3. I say and submit that, thereafter, the Sales Tax officer by his letter dated 10/06/2016, intimated the Excise department that there are Sales Tax dues of Rs.1,71,50,006/- towards the petitioner and still he is running his business, on the basis of renewed license. In reply to the said letter dated 10/06/2016, the Excise Department intimated the Sales Tax Department by letter dated 23/06/2016 that, as the petitioner has submitted a Xerox copy of no dues certificate issued by the Salex Tax Department, his license has been renewed. On the same day, the licencee/petitioner was directed to submit original no dues certificate by a letter dated 23/06/2016. The Excise Department also sent a copy of no dues certificate to Sales Tax Department along wit the letter dated 23/06/2016, for suitable action. In response to that letter the Sales Tax Department by letter dated 28/06/2016 informed the Excise Department that the copy of no dues certificate submitted by the petitioner has not been issued by the Sales Tax Department. The Sales Tax Department also issued letter cum show cause notice dated 27/06/2016 to the petitioner with a copy to Excise Department. The copies of letter dated 10/06/2016, 23/06/2016 and 28/06/2016 are

annexed here with and marked as Exhibit-R-1.

4. I say and submit that, as the petitioner created false, bogus and fabricated no dues certificate, on a complaint given by Sales Tax Officer, Crime No. 172/2016 is registered against the petitioner and others U/s. 420, 446, 447, 471 r.w. 34 of I.P.C. In P.S. Shivaji Nagar, Nanded on 09/07/2016. Hence, the Collector, Nanded issued show cause notice to the petitioner and called upon him for hearing. After giving opportunity of hearing to the petitioner and after considering all the documents and record, the Collector, Nanded, suspended CL-III license of the petitioner by an order dated 17/02/2016, until further orders. The license of the petitioner was suspended because there was huge amount of the Sales Tax Department, due towards the petitioner. The petitioner has also filed false and fabricated No Dues Certificate to show that no amount is due towards him. A crime has also been registered against him for the above charge. Therefore, the order passed by the Collector is just, legal and proper. Moreover, the petitioner has filed Appeal challenging the order passed by the Collector, Nanded before the Present Respondent No.2, which is pending. The petitioner has already availed the remedy available to him. The appeal filed by him can be decided by the competent authority before which it has been filed. He can also pray for granting stay to the order passed by the Collector, Nanded dated 17/02/2017, before the appellate authority.

5. The learned A.G.P. appearing for the state has opposed for granting any relief in view of the objection raised by the respondents. The learned A.G.P. submitted that, by submitting false documents some orders are obtained by the present petitioner and, as such, the petitioner does not deserve to be granted any relief by this Court.

6. Shri Kasliwal, the learned counsel for the petitioner submitted that, the stay has been granted by the Sales Tax Commissioner for recovery of the sales tax dues and, in such circumstances, that cannot be a ground for suspending the license of the petitioner.

7. After hearing the learned counsel appearing for the respective parties, it appears to me that, instead of going into the merits of the case, it would be appropriate to direct the respondent no.2 to expeditiously dispose of the appeal filed by the present petitioner. If the respondent no.2, may not be in a position to dispose of the appeal expeditiously, shall consider the request of the petitioner for grant of interim relief as prayed in the memo of appeal. Order accordingly.

8. The learned A.G.P. to communicate this order to respondent no.2 immediately. The petitioner shall appear before the respondent no.2 on 10.04.2017. The writ petition stands allowed in the aforesaid terms.

9. Parties to act on the authenticated copy of this order.

(P.R. BORA)
JUDGE

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