

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 22 OF 2016

Puneet Dhanda	.. Petitioner
V/s	
Government of Maharashtra	.. Respondent

None for the petitioner.

Mr. A.B. Vagyani, Government Pleader, with Mr. M.M. Pabale, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.**

DATE : 20th JANUARY 2017

P.C.:

This petition has been filed in public interest seeking the following reliefs:

“(a) This Hon'ble Court may be pleased to issue an appropriate writ in nature of mandamus / order or direction to set aside the order of the State Government dated 22.12.2015 by which the power of Police to grant license under section 33 of Bombay Police Act, 1951 has been repealed as outdated.

(b) Issue an appropriate writ in nature of mandamus / order or direction directing the State Government of Maharashtra to act as per law. If any changes are to be brought in the Constitutional Act, it need to be presented and proposed in an

appropriate manner before the assembly, and must be approved before implementing any amendments. A mere order cannot be passed to change the settled Acts.

(c) Issue an appropriate writ in nature of mandamus / order or direction directing the State Government of Maharashtra to act responsibly towards the common people, as passing a mere order can endanger and jeopardise the lives of citizens of the State and a serious law and order problem can arise.”

2. As seen from the above prayers challenge is to an order dated 22.12.2015, which is issued in consequence of the repeal of section 33 of the Maharashtra Police Act, 1951 (“the Act” for short). The amendment was brought about as there were parallel provisions governing the issue of licenses and in order to avoid any overlapping. Mr. Vagyani, learned Government Pleader, has tendered a copy of the Gazette notification dated 19.01.2016 notifying repeal of section 33 of the Act. Admittedly, there is no challenge raised to the constitutionality of the amending Act.

3. In our opinion, the prayers in the petition which concern a circular issued in consequence of the repeal of section 33 by the amending Act, and the action to be accordingly taken by the concerned authorities, cannot be granted since the same being the necessary effect of the repeal of the provision in question. Accordingly there is no merit in the PIL and the same is dismissed.

5. Mr. Vagyani, learned Government Pleader, submits that however in respect of those issues where a special NOC or if no objection from the police is required under the provisions of the Maharashtra Police Act, the same are not dispensed with and are required to be obtained.

(G.S. KULKARNI, J.)

CHIEF JUSTICE