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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12101 OF 2016

Sanjay N. Shinde

... Petitioner

vs.

The Collector,

Zilla Parishad Satara & Ors.

...Respondents

Mr. Ravi P. Kadam for the petitioner.

Mr. Manish M. Pabale, AGP, for the respondent nos.1 to 3.

**CORAM : A.S.OKA, &
A. K. MENON, JJ.**

DATE : 24th APRIL, 2017

P.C.

1. There is already an order made directing disposal of this petition at the admission stage. Accordingly, we have taken up the petition for final disposal.
2. The petitioner desires to run a Video Games Parlour in the building more particularly described in paragraph 2 of the petition. The petitioner applied for the grant of licence on 6th February, 2015 to the first respondent. No objection of the police authorities was called for. By a communication dated 10th March, 2016, the Deputy Superintendent of Police informed the first respondent that it will not be proper to grant licence to the petitioner to start the Video Games Parlour in the property in question. Accordingly, by the second impugned communication

dated 17th March, 2016 the first respondent rejected the application for grant of licence only on the basis of the impugned communication dated 10th March, 2016.

3. The learned counsel appearing for the petitioner invited our attention to the communication dated 9th November, 2015 issued by the Executive Magistrate, Phaltan recording his no objection for grant of licence. It is his submission that no reasons whatsoever have been mentioned by the Deputy Superintendent of Police in his communication for denying the licence to the petitioner. He submitted that at no stage any objection was raised by any other person.
4. The learned AGP relied upon the affidavit in reply of Shri A. D. Phadtare who was at the relevant time having additional charge of the post of the Deputy Superintendent of Police (Home) Satara. In the said affidavit, it is stated that the Police Inspector attached to Phaltan Police Station (Rural) has given no objection for grant of licence after inspection of the premises. Even the Sub-Divisional Officer concurred with the opinion of the Police Inspector, Phaltan (Rural) Police Station and accordingly file was placed before the Superintendent of Police, Satara, who raised certain objections and sought details of the criminal antecedents of the petitioner and his family members. It is further stated that

as per the information received from the confidential sources, it was anticipated that the petitioner is likely to carry out immoral activities in the premises if licence was granted to him.

5. From the impugned communication dated 10th March, 2016 it does not appear that there was any apprehension based on material on record that the petitioner will carry on immoral activities in the premises if licence was granted to him. In this communication, it is not stated that there was any adverse confidential information received about the petitioner.
6. Thus, Shri Phadtare by filing an affidavit has tried to supply the reasons which are not recorded in the impugned communication dated 10th March, 2016. In view of the settled law, such reasons cannot be supplementary by filing an affidavit. Therefore, the petition must succeed and accordingly, we pass the following order:-
 - (i) We direct the Deputy Superintendent of Police (Home) to reconsider the case of the petitioner for grant of no objection certificate for grant of licence to commence the Video Games Parlour in the premises described in paragraph 2 of the petition;
 - (ii) After considering the entire record, the Deputy Superintendent of Police shall consider the prayer for grant of no objection a fresh without being influenced by the impugned

communication dated 10th March, 2016;

(iii) He shall pass an order recording reasons in brief within a period of six weeks from the date on which an authenticated copy is produced in his office;

(iv) As a consequent of the aforesaid order, the second impugned order dated 17th March, 2016 is hereby set aside;

(v) The application made by the petitioner for grant of licence shall be considered a fresh;

(vi) If no objection certificate is granted by the Deputy Superintendent of Police (Home) or the Superintendent of Police of Satara, as the case may be, the application of licence shall be decided within a period of one month from the date on which no objection certificate of the police is received;

(vii) All the contentions on merits are kept open.

(viii) The petition is disposed of on the above terms.

(A. K. MENON, J.)

(A. S. OKA, J.)