

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

WRIT PETITION NO. 1596 OF 2014
WITH
CIVIL APPLICATION NO. 949 OF 2014
IN
WRIT PETITION NO. 1596 OF 2014

Sau. Surekha Hanmantrao Pawar ... Petitioner

V/s.

State of Maharashtra & ors. ... Respondents

Mr. S.S.Hardikar for the petitioner.

Mr. Vikas Mali, AGP for the State.
Mr. Manoj Patil for respondent no.4.

**CORAM : NARESH H. PATIL AND
SMT. BHARATI H. DANGRE, JJ.**

5th June, 2017.

P.C.

The petitioner prays for following substantial reliefs:-

“(a) to issue appropriate writ, order or direction thereby
holding that clause 1 and 8 of the Government Circular issued

by Home Department, Government of Maharashtra, Mumbai 400032 bearing No. PPE-09/2008/279/SB-5, Mantralaya, Mumbai 400 032 dated 15-11-2008 of Exhibit-'A' to the present Writ Petition are violative of Article 14, 19(1)(g) and 21 of the Constitution of India and further to strike down the same to the extent of clauses 1 and 8 of the said Circular:

(b) to direct Respondent No.2 to renew licence of Jai Ambika Loknatya Sanskrutik Kala Kendra, Sanaswadi, Taluka-Shirur, District-Pune till the end of 31st August, 2016 in accordance with Government Circular bearing No. PPE-09/2008/279/SB-5, Mantralaya, Mumbai 400 032 dated 15-11-2008 issued by Home Department, Government of Maharashtra and as per Rules for Licensing and Controlling Places of Public Amusement (other than Cinemas) and Performances for Public Amusement, including Melas and Tamashas, 1960;

(c) to issue appropriate writ, order or direction to Respondent No.1 to reply to query of Respondent No.2 pertaining to the renewal of licence of Jai Ambika Loknatya Sanskrutik Kala Kendra, Sanaswadi, Taluka-Shirur, District-Pune within specified time as this Hon'ble Court deems fit and proper and

in the alternative to direct Respondent No.2 to decide application of renewal of licence of the Petitioner irrespective of opinion/guidance from Respondent No.1 in accordance with law within specified time by issuing appropriate writ, order or direction to the effect;

(d) To stay execution, implementation, operation and effect of clause Nos.1 and 8 of the Government Circular bearing No. PPE-09/2008/279/SB-5, Mantralaya, Mumbai 400 032 dated 15-11-2008 issued by Home Department, Government of Maharashtra being Exhibit-'A' to the present Writ Petition pending the hearing and final disposal of the present Writ Petition;”

2. It is informed that earlier Smt. Menaka Manikrao alongwith others filed a Writ Petition bearing No. 2092/2009. By an order dated 30th July, 2009, the said writ petition came to be disposed off.

3. The petitioner runs a Loknatya Kala Kendra and also claims to be an Artists. Her license expired in the year 2008. The petitioner had applied for renewal of licence, that was renewed.

4. Respondent No.3 Akhil Maharashtra Loknatya filed a Writ Petition bearing No.4493/2009 in this Court. By an order dated 14th August, 2009 petition was disposed of. Paragraph-5 of the said order reads as under:-

“ Earlier when this matter was listed, the learned counsel for Respondent No.1 stated that he would advise Respondent No.1 to issue provisional license and twice time was sought from this Court. However, the Respondent No.1 did nothing in the matter. Taking cognizance of this fact, we direct the Respondent No.1 to issue a provisional license in favour of Respondent No.4 till the Respondent No.1 is in a position to decide the application of the Respondent No.4 after getting clarification from the State Government. With the above directions, the Petition is disposed of.”

5. Learned Counsel appearing for petitioner submits that petitioner is running Loknatya Kala Kendra under the renewed licence which was granted in accordance with the Circular issued by the State on 15th November, 2008. The said Circular is under challenge. On behalf of State Shri P.T. Gaud, Joint Secretary, Home Department filed affidavit-in-reply. Paragraph-3 of the affidavit-in-reply reads as under:-

“ I say that the original records pertaining to the government circular dated 15.11.2008 were burnt in the incidence of massive fire in Mantralaya on 21st June, 2012. However, it clearly seems from the Government Circular dated 15th November, 2008 that as per the Government letter dated 7.10.2005 the Tamasha and Loknaty Programmes were allowed till 12 midnight, with the use of Loudspeaker but after considering sympathetically the demands of Akhil Maharashtra Theater Malak Association and Vishva Maharashtra Sangeet Party Tamasha Kalavant Mahasangh the Government had extended the time to perform till 1.00 a.m. in Kalakendras without Loudspeakers by the said circular dated 15.11.2008. The Government has raised the time of performance by one hour, only after considering the demands of Akhil Maharashtra Theater Malak Association and Vishva Maharashtra Sangeet Party Tamasha Kalavant Mahasangh taking of law and order situation into consideration. Moreover it is felt necessary to restrict maximum number of groups in Kalakendra and the Government has accordingly decided that there should be maximum 9 groups in Loknatya Kalakendra.”

6. On behalf of Respondent No.2 Tehsildar Raghunath Bhagwan Pote filed affidavit.

7. Learned Counsel appearing for petitioner submits that petitioner is aggrieved with two conditions of the Circular i.e. Condition No.1 and Condition No.8. Under Condition No.1 the Artists are permitted to perform without loudspeaker till 1.00 a.m. and in Condition No.8 restrictions are imposed that more than 9 groups shall not be permitted to perform in a Loknatya Kala Kendra. Learned Counsel submits that it would not be safe for women artists to perform late in the night. The condition no.8 too is unreasonable and puts restrictions on the running of Loknatya Kala Kendra.

8. Learned Counsel appearing for respondent no.4 raises issue regarding locus of petitioner. It is submitted that petitioner herself is owner of Loknatya Kala Kendra. The said Kendra is functioning under the very Circular which is impugned herein. Learned Counsel submits that the Association of Artists has not raised any grievance in respect of impugned Circular. The petitioner being a member of association has chosen to independently approach this Court without verifying the views of the association. Learned Counsel submits that even the Artists are

not aggrieved with the said Circular and none of such associations represented by Artists or group of Artists has approached this Court. Learned AGP submits that the State had disclosed its opinion in respect of the Circular in the affidavit filed.

9. We have perused the record placed before us. The petition is pending since the year 2013. As to whether the Condition No.1 under the impugned Circular could be adverse to the safety of women artists is a matter to be considered by the State after taking into consideration views of organisations formed by Artists, Loknatya Kala Kendras, social workers and the prevailing situation in the Society and taking into consideration the rules and regulations framed in this behalf and the law laid down. As regards the Condition No.8 which restricts the number of groups to perform in the Loknatya Kendra, it was argued that the said restriction is unreasonable one.

10. In the facts, we are of the view that on both these counts the concerned associations may submit comprehensive representation to the State. The petitioner too claims to be member of one of such association. Learned Counsel appearing for petitioner submits that some such representation has already been made to the State Government. The

copy of the said representation made to the State, if any, has not been placed on record.

11. In the facts, we observe that it would be for the State Government to take appropriate decision on receipt of comprehensive representation made in respect of the issue raised in this petition. The State authorities are entitled to hear the office bearers of different associations, forums, the local representatives of the area and the social workers operating in the field.

12. Needless to mention that the views of the respondent nos.3 and 4 shall also be sought on this issue.

13. We direct the Principal Secretary-Home to take appropriate decision, in case the representations are received as observed above. We do not express any opinion on the same.

14. Learned Counsel appearing for petitioner seeks leave to withdraw the Civil application. Leave is granted. Civil Application stands disposed of as withdrawn.

15. With aforesaid directions and observations, Writ Petition also stands disposed of.

(SMT. BHARATI H. DANGRE, J)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.