

dik

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

WRIT PETITION (ST) NO. 3098 OF 2018

Amzad Abdul Razak Shaikh & Ors.

...Petitioners

VS

Vasai Virar City Municipal Corporation & Anr. ...Respondents

.....

Mr Drupad S. Patil for the Petitioners.

Mr Atul G. Damle, Sr. Counsel i/b Ms Swati Sagvekar for the
Respondents.

.....

**CORAM : A.S.OKA &
RIYAZ I. CHAGLA, JJ.
MARCH 14, 2018.**

P.C.:

Learned senior counsel for the first Respondent-
Municipal Corporation tenders an affidavit dated 12th March,
2018 of Mr Budhaji D. Shelke, Assistant Municipal
Commissioner of the said corporation. The affidavit records that
the notices dated 16th December, 2017, which are impugned in
this Petition, have been withdrawn. It is stated that the show
cause notices at Exh "E" which are dated 15th December, 2017,
were issued only on the basis of the letter dated 15th December,
2017 issued by the Sr. Police Inspector, Nalasopara Police

Station to the Deputy Commissioner of the first Respondent.

2 We may note here that a copy of the said letter dated 15th December, 2017, is annexed to the affidavit. All that the said letter records is that on 15th December, 2017 at 7.30 a.m., beef was found at Vaja Mohalla, Sopara Gaon, Nalasopara (W). As the impugned notices dated 16th December, 2017 have been withdrawn, the prayers (a) and (b) of this Petition do not survive. As far as prayer (c) is concerned, the notice dated 22nd January, 2018 is based only on the impugned notices dated 16th December, 2017. As a result of withdrawal of the said notices, even the said notice dated 22nd January, 2018 is rendered inoperative.

3 Earlier order records that to the show cause notices dated 15th December, 2017 the copies of which have been annexed as Exh "E", a collective reply has been submitted by the Petitioners. It is for the first Respondent to decide the show cause notices. While deciding the said notices, the first respondent will have to note that the letter dated 15th December, 2017 on which the notices are based does not record that the

petitioners have made any breach. We must clarify that, the applications which may be made by the Petitioners for renewal of their licenses shall not be rejected or shall not be kept pending only on the ground that the show cause notices dated 15th December, 2017 have been issued and if the applications are made by the Petitioners for the renewal of their licenses, the same will have to be decided according to law.

4 Considering the manner in which the entire action was sought to be taken and that also only on the basis of the letter dated 15th December, 2017, a limited protection will have to be granted to the Petitioners in the event their licenses are cancelled or suspended only on the basis of the show cause notices dated 15th December, 2017. Hence, we pass the following order:

O R D E R

- (i) Prayer clauses (a) and (b) of this Petition do not survive as the notices dated 16th December, 2017 have been withdrawn. Even prayer clause (c) will not survive considering the fact that now the notice / communication dated 22nd January, 2018 is

rendered inoperative;

- (ii) We make it clear that if the Petitioners make an application for renewal of their licenses which are the subject matter of the show cause notices dated 15th December, 2017, the said applications shall be decided as expeditiously as possible and the same shall not be either rejected or kept pending only on the basis of the pendency of the notices dated 15th December, 2017;
- (iii) In the event, an action of suspension of licenses of the Petitioners or action of cancellation of licenses of the Petitioners is taken on the basis of the show cause notices dated 15th December, 2017, the same shall not be acted upon and given effect for a period of four weeks from the date on which the decision is communicated to the Petitioners;
- (iv) The Petition is disposed of in the above terms.

(RIYAZ I. CHAGLA J.)

(A.S.OKA, J.)