

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

WRIT PETITION NO.12068 OF 2019

Ashok Pandurang Rathod ... Petitioner
V/s.
The Commissioner of Police
Solapur City and anr. ... Respondents

Ms.Veena Thadani, Advocate for the Petitioner.
Mr.N.C.Walimbe, AGP for the Respondents.

**CORAM : UJJAL BHUYAN, J.
DATE : DECEMBER 20, 2019.**

P.C.:-

1. Heard Ms.Veena Thadani, learned counsel for the petitioner; and Mr.N.C.Walimbe, learned AGP for both the respondents.
2. This petition has been filed for quashing of order dated 13th November, 2019 passed by Commissioner of Police, Solapur City i.e., respondent No.1.
3. By the aforesaid impugned order dated 13th November, 2019, Orchestra license granted to the petitioner for Orchestra performance inside hotel "Jai

Malhar” has been cancelled in view of law and order situation arising within the said hotel premises.

4. On a query by the court, learned counsel for the petitioner submits that there was altercation between two groups inside the hotel premises leading to injuries sustained by certain people. This has led to complaints and counter complaints being C.R.No.850 of 2019 and C.R.No.854 of 2019 registered under various provisions of the Indian Penal Code. Matters are under investigation. She submits that this court has held that license can be cancelled only upon conviction and not during the stage of investigation or trial.

5. On a further query by the court, learned counsel for the petitioner submits that under Section 33 of the Maharashtra Police Act, 1951 petitioner has preferred an appeal alongwith an application for stay before the Government on 19th November, 2019. However, no decision has been taken in the said appeal and in the application for stay.

6. Learned AGP however supports the order passed by the Commissioner of Police and submits that this was not

the first incident which took place in the hotel premises of the petitioner. Considering the past conduct and history and to maintain law and order, Commissioner of Police has rightly exercised his powers and no interference is called for.

7. Submissions made have been concerned.

8. After hearing learned counsel for the parties and on due consideration, court is of the view that since the petitioner has availed the remedy under Section 33 of the aforesaid Act, it would be just and proper if the appellate authority hears and decides the appeal alongwith the application for stay expeditiously.

9. Let the Additional Principal Secretary to the Government of Maharashtra, Home Department take up for consideration the appeal as well as the application for stay filed by the petitioner and decide the same in accordance with law within a period of six weeks from today.

10. Upon due consideration, it is further directed that during this period of six weeks petitioner shall be allowed to use the Orchestra license granted to him but

it is made clear that if there is any further evidence of violence during this period, authorities will be at liberty to take necessary action in accordance with law.

11. Writ petition is disposed of.

(UJJAL BHUYAN, J.)

....