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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2740 OF 2018

Milind Shriram Limaye] .. Petitioner
vs.
The State of Maharashtra & Ors.] .. Respondents

Ms.Shruti Tulpule a/w Shivani Samel for the Petitioner
Sr. Counsel Mr. A.Y. Sakhare a/w Mr.Rohan M. for Respondents.
Smt.S.D. Shinde, APP for the State.

**CORAM : B. P. DHARMADHIKARI &
N.R.BORKAR, JJ.**

DATE : 13th JANUARY, 2020.

P.C.:

1] Learned counsel for the Petitioner submits that this is the sixth Petition filed by the Petitioner in the past 11 years, in an attempt to obtain licence. Reliance is placed upon the Division Bench Judgment dated 6th December, 2013 in Writ Petition No.8923/2012 to urge that rummy is found to be not gambling.

2] Attention is invited to rules on the basis of which Petitioner wish to conduct Card Court Cafe with contention that those rules and purpose is overlooked by the Authorities while passing the impugned order.

3] One of the contention is that the impugned order dated 27th June, 2016 erroneously observes that winner of a price has to sell it at Card Court Cafe and recover its value. Learned counsel also adds that the fetter of not permitting more than four persons at a time on table, imposed by rules is also challenged as unconstitutional in the present matter.

4] We have looked into the impugned order and also the rules. The impugned order initially considers nature of activity and while concluding on next page also observes that as Rummy is a game of skill it does not amount to gambling. However, thereafter observes that price for a winner may introduce unwanted element of allurements and therefore it will amount to gambling.

5] We have not observed anything on merit at this stage as learned Senior Counsel appearing for Respondents has fairly stated that Respondents will reconsider the impugned order in the light of rules to find out whether winner of price has to sell it at Card Court Cafe only.

6] Learned counsel for Petitioner has submitted that the issue of constitutional validity should also be decided right now as Petitioner is in Court since last 11 years and has been forced to file Contempt Petition also.

7] The constitutional validity issue will arise only when needed licences are given to the Petitioner. Here, we find that the impugned order overlooks the relevant portion of the rules on the basis of which Petitioner desires to conduct the activities.

8] We, therefore, accept request of Respondents and permit them to withdraw the impugned order dated 27th June 2016.

9] We direct the Petitioner to appear before the Additional Chief Secretary, Home Department, on 21st January, 2020. Respondents shall within next six weeks pass fresh orders in accordance with law.

10] Keeping all contentions of Petitioner open and with liberty to Petitioner to approach again if any cause of action arises, we dispose of the Petition.

[N.R.BORKAR, J.]

[B.P.DHARMADHIKARI, J.]