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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION***

***WRIT PETITION NO. 2903 OF 2019***

Fairdeal Shipping Agency Pvt. Ltd. ... Petitioner

V/s.

Union of India and Ors. ... Respondents.

Mr. Anil Balani i/b. Devraj Kansara for the Petitioner

Mr. Pradeep Jetly for the Respondent No.2.

***CORAM : NITIN JAMDAR &  
M.S. KARNIK, JJ.***

***DATE : 30 JANUARY 2020.***

**P.C. :-**

By this Petition the Petitioner has sought a writ for quashing the enquiry conducted against the Petitioner pursuant to an order dated 20 November 2014.

2. The Petitioner is a holder of Customs House Agents License (CHAL) for Custom Brokers License (CBL) issued under the Customs House Agents Licensing Regulations 1984/2004.

Under the Custom Brokers Licensing Regulations, 2013 the Respondents have a power of grant of licenses to the brokers such as the Petitioner and also revoke the license in case condition of the license are breached and/or the Regulations.

3. The Petitioner was granted a Customs House Agents License. The Commissioner of Customs (Preventive) Jodhpur, by order dated 2 September 2011 prevented the Petitioner to transact any business at all ports falling within the jurisdiction of the officer. Thereafter, an enquiry was conducted and the license was suspended and the order of suspension was confirmed. The Petitioner filed a statutory appeal in which suspension was set aside and enquiry was directed to be completed within 90 days. Since the enquiry is not being completed, the present Petition is filed on the ground that delay has prejudiced the Petitioner as well as it is in breach of the mandate laid down by the Tribunal.

4. We have heard the learned Counsel for the parties.

5. As far as the directions of the Tribunal is concerned, the same has to be read in the context of the order passed by the Tribunal. The Tribunal had revoked the suspension of the license and as on today the Petitioner continues to function as a broker. The period of 90 days therefore as far as the Petitioner is concerned cannot be considered as mandatory but it was more of a direction in

the interest of the Respondents. Therefore, on this ground alone, the enquiry cannot be quashed.

6. In the reply affidavit the Respondents have explained the reason for delay. They have referred to the proceedings taken place at Jodhpur. Considering the explanation, it cannot be said that there is gross delay and a complete failure of the Respondent to complete an enquiry so as to warrant quashing of the proceedings. Therefore, after hearing the learned Counsel for the parties on 27 January 2020, we had passed the order as under :-

*“Heard learned Counsel for the parties.*

*2. After hearing the learned Counsel for the parties, we are not inclined to accede to the request of the Counsel for the Petitioner to quash the inquiry proceedings on the ground of delay and at the same time inquiry which has been pending for long time should be concluded at an early date. The learned Counsel for the Petitioner seeks time to inform the Court as to what are the documents which the Petitioner would require for steps to be taken and that after this information is given inquiry can be completed in a time-bound manner with cooperation of the Petitioner.*

*3. Stand over to 30 January 2020, to be listed under the caption ‘For Directions’.”*

7. The learned Counsel for the Respondents, on instructions, states that the Respondents will complete the enquiry

within a period of 12 weeks, however, the Petitioner must co-operate with the same and as far as presence of witnesses is concerned, the Respondents will try their best to examine them but there could arise certain eventualities unforeseen by the Respondents, such as witnesses may take time. The learned Counsel for the Petitioner submits that the Petitioner will co-operate for an early disposal of the proceedings.

8. In the circumstances, accepting the statement of the Respondents that an enquiry will be completed within a period of 12 weeks subject to availability of the witnesses and co-operation of the Petitioner, the Writ Petition is disposed of.

M.S. KARNIK, J.

NITIN JAMDAR, J.

Jyoti P. Pawar

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by Jyoti P. Pawar  
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