

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

Basavraj
G. Patil

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Basavraj G.
Patil
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WRIT PETITION NO. 478/2021

Surendra Raghunath Samani Petitioner

Vs.

The Commissioner of Police,
Navi Mumbai & Ors. Respondents

Mr. R. D. Soni with Sujay Gawade I/b. Shree & CO. for the
Petitioner

Mr. S. S. Panchpor, AGP for State

Mr. Tanvir Shaikh, Police Inspector, from the office of
Commissioner of Police, Navi Mumbai.

**CORAM: K.K.TATED &
ABHAY AHUJA, JJ.**

DATED : MARCH 23, 2021

P.C.

1 Heard. By this Petition under Article 226 of the
Constitution of India, the Petitioner challenges the order
cum letter dated 15.12.2020 issued by the Respondent
calling upon the Petitioner to pay sum of Rs.19,19,684/- for
renewal of his license under the Licensing and Controlling
the Places of Public Amusement (other than Cinemas) and
Performance for Public Amusements including Melas and
Tamashas Rules, 1960.

2 After arguing for some time on earlier occasion, the
learned counsel for the Petitioner had sought some time to
take instructions from his client, whether his client is ready

and willing to deposit 50% of Rs.19,19,684/- with Respondent and make appropriate Application to the concerned authority for the same cause of action which is involved in the present Writ Petition.

3 Today, the learned counsel for the Petitioner submits that his client is ready and willing to deposit 50% of Rs.19,19,684/- with Respondents and make an appropriate Application to the concerned Authority for the same cause of action. He submits that the said deposit should be subject to outcome of the said Application. To that effect, he has filed the affidavit dated 16.03.2021 duly affirmed by the Petitioner. The relevant portion of the affidavit reads thus:

"I say that I am ready and willing to approach the Commissioner of police Navi Mumbai with a representation to ;

a) Waive license fee in respect of the performance license granted to my establishment for the period of lockdown during which the Petitioner's hotel M/s Shubham Enterprises (Metro) was closed due the compulsory closure directed by the central government and the state government under the Disaster Management Act i.e. from 22nd March 2020 till date.

b) To reconsider the withdrawal of enhancement in the premises license fees from Rs. 2000 to Rs. 2 lakhs (100 times) more particularly since virtually for the entire year the hotel was not operational due to the Covid Pandemic and government orders as referred to hereinabove.

I say that I shall make the aforesaid representation to the Commissioner of Police Navi Mumbai which is the authority empowered to decide the same in

accordance with the statement made by the Ld. AGP in this Hon'ble Court on 15.03.2021 within a period of 1 week from the date of the directions which may be issued by this Hon'ble Court in this petition.

I pray that this Hon'ble Court may direct the concerned authority to decide the aforesaid representation as made by the petitioner within a period of 4 weeks from the date which the same is filed with a reasoned order after giving opportunity of hearing the Petitioners.

I undertake to deposit 50% of the amount demanded in the impugned demand notice annexed as Exhibit-E to the Petition with the said authority within a period of 2 weeks from the date of the order which may be passed by this Hon'ble Court.

I say that of the implementation and operation of the show cause notice dated 25/01/2021 which is issued to the Petitioner after filing of the present petition and annexed as Exhibit-1 to this affidavit and the impugned demand notice annexed as Exhibit -E to the petition be stayed and not acted upon.

I say that the aforesaid deposit as made by me would be without prejudice to the rights and contentions of the petitioner in the petition and the deposit so made shall be adjusted in accordance with the outcome of the decision which may be taken by the said authority on the representation which may be filed by the petitioner as referred hereinabove."

4 The learned AGP, after taking instructions from the concerned officer, who is present in Court, makes a statement that they have no objection if the Petitioner deposits 50% of the amount demanded by them by letter dated 15.12.2020 with the Commissioner of Police, New Mumbai and makes appropriate Application to the concerned authority for the same cause of action. He

submits that the Commissioner of Police, New Mumbai shall decide the same on merits and communicate the order to the Petitioner, in writing.

5 Considering these facts and the affidavit dated 16.03.2021 filed by the Petitioner, the following order is passed:

- a. The Petitioner to deposit 50% of Rs.19,19,684/- as per the letter / order dated 15.12.2020 (Exhibit-E) page 40 to the petition in the name of Commissioner of Police, Navi Mumbai with the Treasury and inform the Respondents along with the documents.
- b. Once the amount is deposited, the Petitioner to file representation with Respondent No.1 for the same cause of action as in the present Writ Petition within two weeks from today.
- c. If amount is deposited in time and application is made within two weeks from today, the Respondent No.1 to decide the same on merits, if necessary, after hearing both sides and pass a reasoned order and communicate the same to the Petitioner, in writing.
- d. It is made clear that the amount deposited by the Petitioner shall be subject to the outcome of the representation.
- e. All contentions of the parties are kept open.

f. Till decision of the representation that would be filed by the Petitioner and for two weeks from the date of order, if goes against the Petitioner, no steps shall be taken for cancellation of the license issued to the Petitioner.

g. The Writ Petition stands disposed of accordingly.

h. No order as to costs.

(ABHAY AHUJA, J.)

(K.K.TATED, J.)