

Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3369 OF 2021

Santosh Bhoja Shetty

.. Petitioner

Vs.

The Commissioner of Police
(Thane City) and Ors.

.. Respondents

.....

Mr. R.D. Soni a/w Mr. S.N. Gawade i/b Shree & Co. for the
petitioner

Mrs. S.S. Bhende, AGP for respondent – State

CORAM : K.K. TATED &

PRITHVIRAJ K. CHAVAN, J.J.

DATED : 27th JULY, 2021

(Through Video Conferencing)

P.C.

1. Heard.

2. Challenge in this petition is to the impugned Challan dated 8th March, 2021, by which the petitioner has been directed by the respondents to pay exorbitant license fees in respect of the premises license and performance license, clubbing the same together. The petitioner, *inter alia*, seeks directions to the respondents to separate both the licenses for payment of license fees.

3. In short, it is the contention of the petitioner that after

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declaration of the lock-down due to spread of Covid-19 pandemic, all the hotel establishments including the petitioner's hotel was closed down w.e.f. 17th March, 2020. There was absolutely no business due to the lock-down as declared by the Central and the State Governments. In the meantime, the respondents increased the premises license fees from Rs.800/- per year to Rs.2,00,000/- per year arbitrarily and without any basis.

4. The respondent no.1 issued the impugned challan dated 8th March, 2021 calling upon the petitioner to pay an amount of Rs.7,47,500/- towards license renewal fees for the year 2020. The said demand is for composite license fees for both the premises license and performance license. By a reply through his advocate, the petitioner had brought the factual position as regards lock-down and the complete closure of the business to the notice of the respondents. However, there was no response and, therefore, the petitioner is constrained to approach this Court in order to restrain the respondents from taking coercive action proposed to be taken by the them.
5. We heard learned Counsel for the petitioner as well as the learned AGP appearing for respondent – State.
6. Our attention is drawn to the identical writ petitions bearing Writ Petition Nos. 2802 of 2021 and 478 of 2021 wherein Division Bench of this Court by its order dated 23rd March,

2021, after recording the consensus of the respective Counsel, passed an order *inter alia* directing the petitioner to deposit 50% of the amount, which was directed to be deposited by imposing certain conditions.

7. The respective learned Counsel are *ad-idem* on the said aspect.
8. The petitioner has sworn an affidavit dated 22nd July, 2021 to that effect. The same is taken on record and marked "X" for identification. The relevant portion of the affidavit read thus :-

"I say that I am ready and willing to approach the Commissioner of police Thane city 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 Santosh Bar and Restaurant 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. 800 to Rs. 2 lakhs 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 Thane city which is the authority empowered to decide the same.

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 challan dated 08.03.2021 annexed as Exhibit-D 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 the implementation and operation of the notice dated 15.03.2021 which is issued to the Petitioner after filing of the present petition and annexed as Exhibit-1 to this affidavit 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.”

9. Considering the aforesaid facts and affidavit dated 22nd July, 2021 filed by the petitioner, the following order is passed :-

ORDER

- (a) The petitioner to deposit 50% of Rs.7,47,500/- as imposed vide impugned challan dated 8th March, 2021, in the name of Commissioner of Police, Thane with the Treasury within two weeks 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 the 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.

(PRITHVIRAJ K. CHAVAN, J.)

(K.K. TATED, J.)