

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1883 OF 2022

Blanchi Anthony D'souza ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

Mr. Santosh L. Patil a/w. Ms. Shradda Kadam and Mr. Prem Khullar, Advocate for the Petitioner.

Mr. Kedar Dighe, AGP for the Respondents/State.

**CORAM: S.V. GANGAPURWALA &
 S. M. MODAK, JJ.**

DATED : JULY 14, 2022

P.C.

1. The petitioner assails the demand notice directing the petitioner to pay license fee with interest.
2. The learned Advocate for the petitioner contends that the petitioner is not responsible for the delay caused in deciding the application for renewal. The State Authorities are responsible for the delay. The first application of the petitioner is for the year 2011. The petitioner applied for the renewal on 1st February 2012. There was some dispute amongst the family members. The same was resolved in the year 2013. The respondents now seek to recover the license fee with interest. The interest is charged from the year 2011 onwards for which the petitioner is not responsible.
3. The learned AGP submits that the petitioner is duty

bound to pay the license fee after every year. Default in payment of license fee would make the petitioner liable to pay interest. Reliance is placed on Section 114 of the Maharashtra Prohibition Act, 1949 (hereinafter referred to as, **“the Act, 1949”**). The learned AGP submits that there is no flaw in the demand made. The said demand is as per the provisions of the statute and the Act.

4. The dispute in the present matter, it appears, is restricted to charge of interest. The State is charging interest on the ground that the petitioner had not paid the license fee and, as such, made herself liable to pay the interest. The interest as specified in Section 114 of the Act, 1949 is at the rate of 2% per month i.e. 24% per annum. For ready reference the said section is reproduced as under :

“114. Recovery of duties, etc. - (1) All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the provisions of this Act or in respect of any licence, permit pass or authorisation granted under it, and the cost of the supervising staff appointed under section 58A, if not paid within the due date or the prescribed period, shall be recovered from any person liable to pay the same or from his surety, if any, with simple interest at the rate of 2 per cent per month, from the date it has become due, as if they were arrears of land revenue.

(2) When any person, in compliance with any rules, regulation or order made under this Act, gives a Bond (other than a bond under section 91 or 93) for the performance of an act, or for his abstention, from any Act, such performance or abstention shall be deemed to be a public duty within the meaning of section 74 of the Indian Contract Act, 1872; and upon breach of the conditions of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him or from his surety (if any) as if it were an arrear of land revenue.”

5. There cannot be any doubt that the petitioner has to pay the license fee at the time of making application for

renewal. In the present matter, the petitioner did not deposit the license fee/renewal fee. It is also an admitted fact that there was a dispute between the petitioner and her family members and because of which further steps would not be undertaken. The dispute got resolved in the year 2013 only. No doubt, the petitioner failed to deposit the license fee for the year 2011-12 and 2012-13. The license fee for the year 2011-12 and 2012-13 is Rs.2,85,600/- per year which the petitioner is liable to deposit. Even the petitioner is liable to pay license fee for further years. However, from the year 2013-14, the petitioner is not responsible for the delay caused for processing the application for renewal and grant of extension. The petitioner cannot be penalized for no fault of her. A long delay has been caused in processing the application of the petitioner and making demand.

6. In the peculiar facts of the present case, it would be inappropriate to demand interest from the petitioner, more particularly when the petitioner was not at fault.

7. In light of that, we pass the following order :

ORDER

- i) The impugned demand to the extent of interest is set aside. The license renewal fee for each year has to be paid by the petitioner.
- ii) The petitioner shall pay interest on Rs.2,85,600/- for the year 2011-12 and on Rs.2,85,600/- for the year 2012-13.
- iii) The interest for the subsequent period is set aside.
- iv) The amount of the license fee along with interest

on the amount for the year 2011-12 and 2012-13 shall be made within two months from today.

- v) The writ petition is accordingly disposed of. No costs.

(S. M. MODAK, J.)

(S.V. GANGAPURWALA, J.)

RAJU
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GAIKWAD

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