

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1054 OF 2022

Nilesh Pandharinath Kasale

Proprietor of Samarth Enterprises, Mumbai

.. Petitioner

Vs.

The State of Maharashtra,

Through the Secretary, Home Department,

Maharashtra State and Ors.

.. Respondents

Mr. Nitin Gaware–Patil for the Petitioner.

Mr. A.R. Kapadnis, APP for the Respondents–State.

CORAM : SUNIL B. SHUKRE & ABHAY S. WAGHWASE, JJ

DATE : 13TH MARCH, 2023.

P.C. :

1. Heard learned counsel for the petitioner and learned APP for the respondents–State.

2. Prima facie we are of the view that through a criminal writ petition, an omnibus declaration sought to the effect that “Play Lott Skilled Online Quiz Contest” as a game of “mere skill” and not a gambling activity, cannot be granted by this court much less injunction for restraining the State and the Police Authorities from taking any coercive or criminal action against the petitioner cannot be issued.

3. Of-course, it is the contention of learned counsel for the petitioner that on and off, FIRs are being registered against the petitioner for carrying out the said sport and therefore the petitioner is required to approach this court. According to the learned counsel for the petitioner, fundamental right of the petitioner to carry on his trade has been violated, even though there is no prohibition on conducting the said sport.

4. If this is the contention of the petitioner, the petitioner would have to take recourse to civil law remedy, where he can lead evidence and seek the desired declaration. As far as criminal law is concerned, each case is required to be considered and dealt with on its own merits. If any crimes are registered against the petitioner, the petitioner would have a remedy to seek their quashing in accordance with law but, seeking a declaration and injunction, as the petitioner has attempted to do in this petition, in our considered view, is not permissible in the field of criminal law. The petitioner may take a recourse to such other remedy as may be available to him in law.

5. Petition is disposed of accordingly.

[ABHAY S. WAGHWASE, J.]

[SUNIL B. SHUKRE, J.]