



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

989 CRIMINAL WRIT PETITION NO. 1411 OF 2023

SATVASHILA BABASAHEB ANDHARE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for the Petitioner : Mr. Jadhavar Santosh Sampatrao

APP for Respondent/State : Mrs.Pratibha J. Bharad

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CORAM : SANJAY A. DESHMUKH, J.

DATED : 30th JANUARY, 2024.

PER COURT :-

1. This writ petition is filed against the order dated 14.07.2023 passed by respondent no.2 by which the performance licence of the petitioner is cancelled.

2. The learned advocate for the petitioner pointed out the order of respondent no.2, by which the said licence is cancelled in view of rule 245 of Chapter 20 of the Rules for Licensing and Controlling Places of Public Amusements (other than Cinemas) and Performances for Public Amusement, Including Cabaret Performances, Discotheque, Games, Pool Game Parlours, Amusement Parlours Providing Computer Games, Virtual Reality Games, Cyber Cafes, Games with Net Connectivity, Bowling Alleys, Card Rooms, Social Clubs, Sports Clubs, Meals and Tamashas Rules, 1960 (for short, "Rules of 1960").

3. The learned advocate for the petitioner submitted that rule

245 of Rules of 1960 is applicable in the greater Bombay only, therefore, the impugned order is ab-initio void. As per rule 238 of the Rules, 1960, contravention like danger of the audience etc., has to be established but rule 238 is not invoked by respondent no.2 while cancelling the licence. He, therefore, prayed that the impugned order be quashed and set aside.

4. The learned APP strongly opposed the application and pointed out the affidavit in reply submitted on behalf of respondent no.2, in which it is averred that the Assistant Superintendent of Police, Sub-Division, Kaij, Dist. Beed forwarded the proposal dated 10.07.2023 to the deponent for cancellation of performance licence and on that basis, the impugned order was passed because the FIR is registered about the illegal activities to prevent exploitation of minor girl and woman in the said Kala Kendra. The learned APP lastly submitted to dismiss the writ petition.

5. Perused the rule 245 of the Rules of 1960. Rule 245 is not empowering rule to cancel the licence granted to the said *Kala Kendra*. It pertains to the greater Bombay and power is vested with the Commissioner of Police. As far as rural area is concerned, the said powers are regarding only exemption and not for cancellation. Merely because the crime is registered about the incident occurred in the *Kala Kendra*, the licencing authority cannot cancel the licence unless law permits. Further the principles of natural justice are not

followed. An opportunity of hearing was not given to the petitioner. Thus, the order passed by respondent no.2 is illegal and unsustainable. The Writ Petition, therefore, deserves to be allowed. It is allowed in terms of prayer clause "B".

(SANJAY A. DESHMUKH, J.)

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