

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 943 OF 2024

Natraj Restaurant and Bar, through its Proprietor ... Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents

Mr. R.D. Soni a/w. Mr. Sujay Gawade and Mudita Pawar i/b. Shree & Co. for
the petitioner.

Ms. P.N. Diwan, AGP for the State.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 2 February, 2024

P.C.

1. Not on board. Upon mentioning, taken on board on a praecipe as moved on behalf of the petitioner.
2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

“a) That this Hon’ble Court be pleased to call for the record and proceeding from the office of respondent no. 3 pertaining to the matter of the petitioner and after perusing the same, this Hon’ble Court be pleased to quash and set aside the impugned order dated 05.01.2024 annexed at Exhibit ‘D’ hereto;

b) or in the alternatively this Hon’ble Court be pleased to issue appropriate writ, order and direction to respondent no. 2 to hear the appeal and stay application filed by the petitioner and direct the said respondent no. 2 to make necessary arrangement for hearing of appeal filed by the petitioner and to stay the impugned order dated 05.01.2024, annexed at Exhibit ‘D’ hereto, till the hearing of the said Appeal and for the further period of three weeks if the said order is adverse.

c) Pending the hearing and final disposal of this petition as well as appeal pending before respondent no.2, the operation, implementation and execution of the order dated 05.01.2024 (annexed at Exhibit ‘D’ hereto) be stayed;

d) That pending the hearing and final disposal of the present writ petition, the respondents, his officials, servants and agents be restrained by an order and injunction of this Hon’ble Court from preventing or obstructing to performance of orchestra in the petitioner establishment M/s. Natraj Restaurant and Bar situated at Shubham Palace, 1st floor, Plot No. 85/86, Sec. 15, Koparkhairane, Navi Mumbai.”

3. The petitioner is aggrieved by an order dated 5 January, 2024 passed by the Commissioner of Police, Navi Mumbai whereby the petitioner's entertainment licence to conduct an orchestra granted under the Mumbai Police Act has been cancelled for the reasons which are set out in detail in the impugned order.

4. It is the petitioner's case that the petitioner has already taken recourse to the appellate remedy by filing an appeal before the Principal Secretary, Home Department. The prayer of the petitioner obviously is that although an appeal has been filed, this Court adjudicates prayer clause (a), i.e., legality of the impugned order dated 5 January, 2024 passed by the Commissioner of Police, Navi Mumbai, however, the petition is being pressed only insofar as prayer clause (b) is concerned.

5. We are of the clear opinion that the petitioner would be correctly advised not to pursue the petition in respect of prayer clause (a), as the appeal of the petitioner is itself pending before the State Government. Insofar as prayer clause (b) is concerned that the hearing before the State Government be expedited, we do not find that there is such glaring urgency that the State Government should accord utmost priority that the appeal be immediately decided. The reason being that it is only the orchestra licence which has been cancelled and not the licence to conduct the restaurant.

6. Having perused the impugned order as also the record, in our opinion, it would be appropriate that the appeal filed by the petitioner be taken up by the Appellate Authority as expeditiously as possible along with the stay application and in any event, within a period of six months from the date the copy of the

order is presented before the Appellate Authority. Also it is always permissible for the petitioner to make a request before the Appellate Authority for an early hearing of the stay application.

7. Accordingly, keeping open all contention of the parties, the petition stands disposed of in the above terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)