

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

WRIT PETITION NO.672 OF 2023

1. Mohammed Rafiq Ayub Shaikh
 2. Ganpat Ningaji Gawade
- ...Petitioners

Versus

1. State of Maharashtra
 2. The Principal Secretary,
Department of Home Affairs.
 3. Commissioner of Police, Mumbai
 4. The Senior Inspector,
Social Service (S.S.) Branch
 5. The Police Inspector,
Agripada Police Station.
 6. The Director General of Police,
Maharashtra.
- ...Respondents

Mr. Ashok A. Rao a/w Mr. Aryan Kotwal, for the Petitioners.

Ms. P. P. Shinde, A.P.P for the Respondents – State.

API – V. O. Vasave, Worli Police Station and PSI – A. T. Shirke from
Antop Hill Police Station, are present.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 29th JANUARY 2024

P.C. :

1. The grievance of the petitioners, is that despite the Notification dated 3rd March 2016, issued by the Commissioner of Police, Greater Mumbai being valid and subsisting, the respondents and their officers are acting in a high handed manner and are harassing/stopping the petitioners from running the Video Game Parlour. The petitioners have also in the alternative sought a direction that the respondents should not take coercive steps against them for running Video Game Parlour.

2. Learned APP has filed an affidavit of Dr. D. S. Swami, Deputy Commissioner of Police, Enforcement, Crime Branch, Mumbai and Mr. Akbar Pathan, Deputy Commissioner of Police, Zone-III, Mumbai, dated 9th October and 10th October 2023 respectively. In para 5 of the affidavit dated 9th October 2023, it is stated that till today, no complaint has been received from the petitioners or any

other establishment owners against the officers of Social Service Branch, regarding any high handed actions taken, as claimed by the petitioners. It is further stated in the aforesaid affidavits, that they are aware of the Notification dated 3rd March 2016 issued by the Commissioner of Police, Greater Mumbai. It is stated that the said Notification is not applicable for Amusement Parlors under Rules 1960, (w), (wa), (x) and (y) of sub-section (1) of Section 33 of Maharashtra Police Act and as such the Notification will not be applicable. It is further stated that no complaint is found to be registered/received against the said establishment and that no police officer/police personnel have visited and enquired regarding NOC at the petitioner's establishment. It is further stated that if any Video Game Parlour is found engaged in undue pecuniary gain/illegal act of pecuniary gain under the pretext of Video Game Machine, action can be taken by the police under the provisions of Maharashtra Prevention of Gambling Act.

3. Learned counsel for the petitioners states that the police officer/police personnel have been visiting the petitioners' establishment and have been insisting on an NOC, despite there being no NOC requirement for conducting a Video Game Parlour. Learned counsel further submits that the petitioners would install CCTV cameras, outside and inside the petitioners' establishment, to show that the petitioners are not conducting anything illegal and also to show the actions of the police.

4. Needless to state, that it is open for the petitioners to install CCTV camera, if the petitioners, so desire.

5. Suffice to state, that the Notification dated 3rd March 2016, issued by the Commissioner of Police, Greater Mumbai, clearly shows that license is not required for Video Game Parlour. The same is also not disputed by the learned APP that the said Notification is not applicable to Video Game Parlour. She submits that however, if the petitioners establishment is found engaged in undue pecuniary gain,

under the pretext of Video Game Machine, it is open for the police to take appropriate action, in accordance with law. There can be no dispute about the same.

6. In view of the affidavits and the respondent – police accepting that the Notification dated 3rd March 2016, does not apply to Video Game Parlour and what is stated aforesaid, nothing survives for further consideration in this petition. The petition stands disposed of accordingly.

All concerned to act on the authenticated copy of this order

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.