

**VASANT
ANANDRAO
IDHOL**

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

**INTERIM APPLICATION NO. 1980 OF 2024
IN
WRIT PETITION NO. 1281 OF 2024
WITH
WRIT PETITION NO. 1281 OF 2024**

M/s Crazy Boys Restaurant And Bar	...Applicant /
	...Petitioner
Versus	
State Of Maharashtra And Ors.	...Respondents

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Mr.R.D. Soni with Mr.Sujay Gawade and Ms.Sumedha Dhopate and
Mr.Mudita Pawar i/b Shree & Co. for the Applicant / Petitioner.

Mr.P.G. Sawant,A.G.P for the Respondent – State.

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**CORAM : AVINASH G. GHAROTE, J.
DATE : 25th JULY, 2024**

P.C.:

1. Heard Mr.Soni, the learned counsel for the petitioner.
The petition questions the order dated 30.10.23 (Page 52) by
which the performance license dated 18.02.2015 granted to the
petitioner (page 22) has been cancelled by the respondent No.3
on the ground of violation of the terms of the license. (page 59).
An appeal carried to respondent No.2 , has also been turned

down by an order dated 19.01.2024 (page 88).

2. The learned counsel for the petitioner submits, that both the orders, suffer from non-application of mind, to the contentions raised by the petitioner, as well as in absence of consideration of any material, to indicate that there was violation of the rules or the conditions of the license, based upon acceptable material, which mented consideration in law. It is submitted that the impugned order does not indicate which condition of the license has been contravened and in what manner and both the impugned orders proceed on a general proposition, which is based upon conjunctures and surmises and not upon any material, which can said to be permissible to be taken into consideration. He further relies upon the judgment in the case of *Krishna B. Shetty vs. State of Maharashtra & Anr.* in Writ Petition No.2246 of 2024 dated 16.07.2024 in support of his contention.

3. The learned AGP supports the impugned order contending that the terms of the license dated 18.02.2015 were violated, in as much as, permission was granted, under the license, only for the performance as per the suitability certificate

issued by “Rangbhumi Prayog Parinirikshan Mandal” in terms of clause 3 (page 22) of the aforesaid license. He further contends that, clause 9 of the license prohibited mixing of orchestra performers with the customer and so also clause 10 prohibited any profane or improper language, or indecency of dress movement or gesture. He therefore, submits that it was the obligation of the petitioner to conduct the performance in terms of the license, which has not been so done, on account of which the license has been permanently cancelled.

4. A perusal of the impugned order dated 30.10.2023 by the respondent No.3, (page 57) indicates that the same has been passed merely on the basis of conjunctures and surmises. Except for past offences registered against the petitioner, which could not have been taken into consideration, nothing has been considered. There is nothing in the impugned order to indicate that there was any seizure made, panchanama prepared and any statement recorded during the raid on the premises in the night intervening 25.08.2023 and 26.08.2023, so as to enable the respondent No.3, to come to a conclusion that any of the conditions, of the license were violated.

5. Learned AGP has been unable to point out from the order dated 30.10.2023, the consideration of any such material. Similar is the position with respect to the order dated 19.01.2024 which also goes upon mere conjunctures and surmises. Considering that there is no any material indicated to be available for the purpose of arriving at a conclusion that the terms of the license were violated. In *Krishna B. Shetty* (supra), a similar position was considered, in which the Government Resolution dated 23.01.2009 prohibiting cancellation of license, on account of pendency of criminal prosecution, has also been held to be one of the factor, which would not permit the Licensing Authority to cancel the license. A perusal of the order dated 30.10.2023, by respondent No.3 would indicate that offences registered against the petitioner, in the past have been considered for the purpose of cancellation of license, which would be contrary, to what has been directed in the Government Resolution dated 23.01.2009.

6. In view of the above position, the show cause notice dated 21.09.2023, the order dated 30.10.2023 by respondent No.3 and so also order in appeal dated 19.01.2024 by respondent No.2, cannot be sustained and are hereby quashed and set aside,

as a result of which, the license of the petitioner establishment would stand revived. In case it is found, subsequent thereto that there are any breaches of terms of the license or the rules applicable in that regard, it would be open to the respondents, to initiate appropriate action permissible in law.

(AVINASH G. GHAROTE, J.)