



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.136 OF 2024

Kailash s/o Ratanlal Kabra

Aged : about 58 years,

Occupation : Business,

Having it's Place of Business at

Bazar Ward, Chandrapur.

District Chandrapur.

..... **PETITIONER**

...V E R S U S...

1. The Collector/District Magistrate,
Chandrapur.

2. Superintendent of Police,
Chandrapur.

..... **RESPONDENTS**

WRIT PETITION NO.8333 OF 2023

Anita w/o Ravi Ghosh,

Aged about : 34 years,

Occupation : Business,

Having it's Place of business

Bengali Camp, Chandrapur.

..... **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.

2. Superintendent of Police,
Chandrapur.

..... **RESPONDENTS**

WRIT PETITION NO.8346 OF 2023

Mohan s/o Darmaraj Aswani,
Aged about 46 Years,
Occupation : Business,
Situating at Durgapur Survey no.115,
Plot No. 1, District Chandrapur. **PETITIONER**

..V E R S U S..

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8338 OF 2023

Damodhar Adkuji Nimbalkar
Aged : 65, Occupation : Business,
Having it's Place of Business at
Near Shree Talkies, Chandrapur,
District Chandrapur. **PETITIONER**

..V E R S U S..

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8339 OF 2023

Sumit s/o Prakash Atterkar,
Aged about : 46 years, Occupation : Business,
Having it's Place of Business at
Mouza : Chanda, Bhanapeth Ward,
Chandrapur. **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8340 OF 2023

Parvej Ekbal Ajij Khan
Aged about : 54 years, Occupation : Business,
Having it's Place of business
Near Jatpura Gate, Chandrapur. **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8344 OF 2023

Ravi s/o Dharmraj Aswani
Aged : Major, Occupation : Business,
Having it's Place of Business at
Shop No. 8, Near Rajkala Talkies
District Chandrapur. **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8341 OF 2023

Amit s/o Dinesh Sagalani,
Aged about : 40 years, Occupation : Business,
Having it's place of business:
Mouza : Chanda, Bhanapeth Ward,
Chandrapur.

..... **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur.

..... **RESPONDENTS**

WRIT PETITION NO.8347 OF 2023

Vinod s/o Shankarlal Sankat,
Aged about : 45 years, Occupation : Business,
Having it's place of business at
Near Rajkala Talkies, Chandrapur.

..... **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur.

..... **RESPONDENTS**

WRIT PETITION NO.8348 OF 2023

Suresh Kashyap,
Aged about : 60 years, Occupation : Business,
Having it's place of business
Fahim Guest House,
Near Jatpur Gate, Chandrapur.

..... **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8343 OF 2023

Classic s/o Gulabrao Danav,
Aged about : 38 years, Occupation : Business,
Having it's place of business,
Nagar Parishad Complex,
Near Rajkala Talkies, Chandrapur. **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8345 OF 2023

Sudhakar s/o. Narayan Khobragade,
Aged about : 55 years, Occupation : Business,
Having it's place of business
Near Tilak Maidan, Chandrapur. **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

WRIT PETITION NO.8342 OF 2023

Irfan s/o Hafij Qureshi,
 Aged about : 41 years, Occupation : Business,
 having its place of business at
 Bhanapeth, Shop No.1, Bhumika Towar,
 Chandrapur. **PETITIONER**

..V E R S U S..

1. The State of Maharashtra,
Through Collector, Chandrapur.
2. Superintendent of Police,
Chandrapur. **RESPONDENTS**

 Mr. Yash Kullarwar, Advocate for Petitioner (In all petitions).
 Mr. H. D. Futane, AGP for Respondent Nos.1 & 2/State (In
 all petitions).

CORAM: **BHARAT P. DESHPANDE, J.**
DATE: **22nd MARCH, 2024.**

COMMON JUDGMENT:

Heard.

2. Rule. Rule is made returnable forthwith.
3. Heard finally with the consent of the learned counsels
for the respective parties.
4. The order impugned in all these matters is in
connection with cancellation of license issued in favour of the

petitioner under the Bombay Police Act and Rules of Licensing and Controlling Places of Public Amusement for operating Video Parlours, only on the ground that there is no proper parking space and there is likelihood of traffic congestion due to the vehicles/customers coming to such places.

5. The learned counsel for the petitioner while relying in the case of *Iyandurai Chinappa Kaukar v. Commissioner of Police and another 2015(2) Mh.L.J. 459* and *Jagdish N. Shetty v. Commissioner of Police, Navi Mumbai and others 2013(6) Mh.L.J. 791*, would submit that this Court while dealing with similar circumstance quash and set aside such order on the ground that there is no condition for issuance of license with regard to providing of parking spaces.

6. The learned AGP appearing for the State would submit that because of existence of such Video Game Parlour in the market premises, there is serious obstruction to the movement of the traffic due to parking of vehicles as the petitioner failed to provide separate parking space for the customers who are attending such video parlours.

7. In the case of *Iyandurai Chinappa Kaukar (supra)* the

learned Single Judge of this Court while dealing with similar issue of cancellation of license on the ground that there is no separate parking space provided, referred to earlier decision in the case of ***Harmesh Singh Chadha v. The Commissioner of Police and another*** decided in ***Writ Petition No.253/2014*** and reproduce para 13 therein:

“13. As regards the issue of parking is concerned, the learned counsel for the petitioner has placed on record the compilation of orders passed by the Court in Writ Petition No. 2075 of 2004 in the case of Krishna A. Poojari vs. State of Maharashtra and Ors., Writ Petition Lodging No. 29985 of 2012 – Manohar G. Bhavanishankar vs. State of Maharashtra and Ors. and in the case of Jagdish N. Shetty vs. Commissioner of Police and Ors. 2013 6 MhLJ 791. There is no serious dispute on behalf of the State as regards the contention that availability of parking cannot be made as a ground for rejection of the Police license. In view of this decision, the objection based on parking will not survive. A statement is made by the learned counsel for the Petitioner that valet parking will be provided to the customers of the said establishment and valet parking will be organised in such a manner not to obstruct free-flow of traffic and cause other traffic problems. This statement on instructions is accepted. If this statement is breached it will be open to the authorities to take suitable action.”

On this basis it is observed in para 12 that in series of judgment passed by this Court, it was held that non-availability of

the parking spaces cannot be a ground for rejection of public entertainment license.

8. In the case of *Jagdish N. Shetty (supra)*, the learned Single Judge of this Court while dealing with the same aspect and relying upon earlier decisions as found recorded in para No.24, observed that the license can be cancelled only on the ground that there is no parking space provided.

9. Facts in the present matter are identical to the above decisions.

10. The order issued by the Competent Authority dated 15.11.2023 would go to show that the license is cancelled only on one ground i.e. no separate parking space provided for the customers attending the parlour. Thus, it is clear from the record that license is cancelled only on the ground of want of parking space provided by the petitioner.

11. The ratio laid down in the above decision would clearly reveal that such ground is not available with the concerned authorities for cancellation of license. On this ground alone, the petition needs to be allowed. Accordingly, the impugned order is

quashed and set aside.

12. The learned counsel for the petitioner submits that by common affidavit filed, the petitioners are ready and willing to give undertaking to the concerned authority that they will provide separate parking space for the customers attending the said parlour. Statement is accepted. The petitioner to furnish such undertaking before the Competent Authority.

13. In Writ Petition No.8347/2023 apart from the ground of absence of parking space, there is another ground regarding pendency of FIR. The learned counsel for the petitioner submits that only because of FIR is filed, the license can be cancelled.

14. The learned counsel for the petitioner submits that the license could be cancelled only upon breach of conditions imposed in it and not on any other ground as held in the case of *Renuka Sanskritik Kala Kendra; Natraj Sanskrutik Kala Kendra v. State of Maharashtra; Collector; Superintendent of Police; Tahsildar and Executive Magistrate; Grampanchayat Moha; Additional District Magistrate 2021 ALL MR (Cri) 1554*. There is no dispute about above proposition. FIR cannot be a ground to cancel license.

15. Rule is made absolute in the above terms.
16. The parties shall act on the authenticated copy of this order.

(BHARAT P. DESHPANDE, J.)

NSN