

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11185 OF 2025

Rahul Ashok Jagtap,
Proprietor M/s. Hotel Galaxy,
Land Gat No.299/2, Plot No.5,
Mouje-Kondi, Taluka – North Solapur,
District – Solapur.Petitioner

Vs.

1. The State of Maharashtra,
Through Collector, Solapur.
2. The Collector and District
Magistrate, Solapur,
District. Solapur.Respondents

Mr. Prasad P. Kulkarni with Mr. Nakul Shukla, Mr. Amol Kanaki, Mr.
Tejas Dalvi & Mr. Amol Deshinge, for the Petitioner.
Mr. Sanjay D. Rayrikar, AGP, for the Respondents-State.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 8th OCTOBER 2025

JUDGMENT :-

1. The Petitioner impugns order dated 28th March 2025 passed by learned Divisional Commissioner, Pune in appeal No. SR-08/24, upholding order dated 8th April 2024 passed by Collector and District Magistrate, Solapur, thereby cancelling Orchestra Licence granted in favour of plaintiff.

2. Petitioner is Proprietor of M/s. Hotel Galaxy. Since 7th August 2014, he has been granted Licence for having orchestra performances in his restaurant. Thereafter, Petitioner submitted applications for renewal of licence alongwith requisite fee, however no orders granting or refusing renewal were passed by Respondent No.2. Petitioner made application for renewal of his licence on 25th November 2022. He received a letter dated 2nd December 2022 from office of Respondent No.2 asking him to produce certain documents. Thereafter, Petitioner made an application for renewal of orchestra licence in the year 2024.

3. Petitioner had received show cause notice dated 18th March 2024 as to why his orchestra licence should not be cancelled, since he has not renewed licence in Form “E” (Performance Licence) and licence in Form “D” (Premises Licence), i.e., Orchestra Licence. On 27th March 2024, petitioner submitted his reply to show cause notice and pointed out that he is conducting business in terms of conditions of licence and provisions of law. He has followed all the instructions given by the concerned officer and installed CCTV cameras, made other arrangement and was always compliant with the provisions of

law. Petitioner explains that his restaurant was closed during Corona pandemic period and was in financial difficulty. Thereafter, his brother committed suicide alongwith his family members. His family was in trauma. He undertook to comply with all requirements in accordance with law and submitted necessary papers with requisite fee. He submitted all the licences duly renewed alongwith No Objection Certificate from PWD and certificate from Entertainment Department saying that there are no dues payable. Unfortunately, Respondent No.2 passed order dated 8th April 2024 permanently cancelling his licence in Form “E” (Performance Licence) and licence in Form “D” (Premises Licence), i.e., Orchestra Licence.

4. The impugned order records that Petitioner had violated provisions of Rule 221 of Rules for Licensing and Controlling Places of Public Amusement (other than Cinemas) and Performances for Public Amusement including Melas and Tamashas, 1960 (For short, **‘the Rules’**). The report of Police was called, who negatively recommended for renewal of licence. The order further records that one Venkatesh Pampanna Dambaldini is the owner of hotel premises, but no agreement between him and Petitioner has been produced.

Further, reference given to Rule 90 and 118 of the Rules, which provide that no person would open a place of public amusement unless he had obtained a premises licence.

5. Aggrieved Petitioner filed appeal before Divisional Commissioner under Section 33 of Maharashtra Police Act, 1951 (For short, '**the Act**'). Learned Divisional Commissioner rejected appeal observing that there is negative recommendation from police authorities, as there are two civil suits pending in respect of premises occupied by Petitioner.

6. Mr. Prasad Kulkarni, learned Advocate appearing for Petitioner submits that primarily, Respondent No.2 cancelled licence of Petitioner on ground that Regular Civil Suit No.21 of 2022 and Regular Civil Suit No.452 of 2000 are pending before Civil Court in relation to premises and licence. He would submit that Plot No.5, Gat No.299/2 is owned by Venkatesh Pampanna Dambaldini. He leased out said premises to Petitioner. Mr. Dambaldini has given no objection for renewal of licence. However, on the basis of alleged agreement to sell executed by Mr. Dambaldini, Mr. Somappa Sidhappa Kothargasti instituted Regular Civil Suit No.21 of 2022 for

specific performance of contract against landlord. Similarly, Mr. Kothargasti claims that Petitioner has agreed to transfer licence in his favour and for implementation of said agreement, he has filed Regular Civil Suit No.452 of 2000. Mr. Kulkarni submits that mere pendency of aforesaid litigation cannot be ground to refuse renewal or cancellation of Premises Licence under provisions of Rule 118 of the Rules.

7. Learned AGP opposes the prayers in Petition and submits that both the authorities have rightly cancelled licence of Petitioner in light of provisions under 1960 Rules read with Section 162 of the Act.

8. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that learned Divisional Commissioner in his order relied on police report that refers to pendency of R.C.S.No.21 of 2022 and R.C.S.No.452 of 2000 in relation to premises, where Petitioner runs his hotel business. Further reference is given to Rule 90 of the Rules, which reads as under:

“90. Premises Licence: Subject to the provisions of rule

118 no premises shall be opened or allowed to remain open for use as a place of public amusement unless the person being the owner, tenant or occupier thereof shall have obtained a premises licence therefor.”

9. There cannot be any dispute that premises owner Mr. Dambaldini has given no objection and consent letter in favour of Petitioner for renewal of licence. Petitioner is running the orchestra since 2014 onward. Apparently, no orders as to renewal were passed in favour of Petitioner on account of pending civil litigation. However, that cannot be a ground to refuse renewal of or discontinuation of licence. The subject matter in civil suits can be independently dealt with by Civil Court. The rights of parties would be subject to final outcome of decree passed by Civil Court. However, that cannot be construed as impediment to run orchestra or cause for cancellation of licence.

10. Rule 121 of the Rules provides that if licence is not got renewed, action for cancellation of licence be taken. In present case, Petitioner had made consistent applications for renewal of licence alongwith fees. Normally, renewal of licence could have been granted unless there is sufficient and justifiable reason for refusing

the same. Perusal of impugned order do not depict justifiable ground for cancellation of licence. The cancellation of licence is ordered only on ground of pendency of civil dispute between Petitioner and third person. No justifiable reason is discernible from impugned order in support of cancellation of licence. Apparently, ground for cancellation in show cause notice and orders of authorities are inconsistent. On this ground also, impugned order deserves to be quashed and set aside.

11. In result, Writ Petition is allowed in terms of prayer clauses (a) and (b).

(S. G. CHAPALGAONKAR, J.)

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