



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3680 OF 2026

M/s Hotel Sadguru Restaurant and Bar
Through Its Proprietor
Nagesh Padmappa Suvarna
Age:- 70 years, Occupation – Business,
situated at Takpada, Makwana Road,
Andheri (East), Mumbai – 400 059.

..Petitioner

Versus

1. State of Maharashtra
Through Home Department
Mantralaya, Mumbai – 400 032.

2. The Divisional Commissioner of Konkan
Division,

3. The Commissioner of Police,
Office of Commissioner of Police,
Mumbai – 400 001.

4. The Deputy Commissioner of Police,
H.Q-I (Hotel Branch),
Office of the Commissioner of Police,
Mumbai – 400 001.

5. The Senior Inspector of Police
MIDC Police Station,
Andheri (East), Mumbai 401 104.

...Respondents

WITH
WRIT PETITION NO. 1528 OF 2026

WITH

INTERIM APPLICATION NO. 1468 OF 2026

IN

WRIT PETITION NO. 1528 OF 2026

Nagesh Padmappa Suvarna

Age:- 70 years, Occupation – Business,

The Proprietor and License holder of

M/s Hotel Sadguru Restaurant and Bar,

situated at Takpada, Makwana Road,

Andheri (East), Mumbai – 400 059.

..Petitioner

Versus

1. State of Maharashtra

Through Home Department

Mantralaya, Mumbai – 400 032.

2. The Divisional Commissioner of Konkan

Division,

Having address at Opp. Jehangir Art Gallery,

Mumbai – 400 001.

3. The Commissioner of Police (Brihan Mumbai),

office of Commissioner of Police,

Commissioner Compound,

Near Crawford Market,

Mumbai – 400 001.

4. The Deputy Commissioner of Police,

H.Q-I (Hotel Branch), Mumbai,

Having office at

Office of the Commissioner of Police,

Commissioner Compound,

Crawford Market, Mumbai – 400 001.

5. The Sr Inspector of Police

MIDC Police Station,

Andheri (East), Mumbai.

...Respondents

Mr. R.D. Soni, with Sujay N. Gawade, Mudita Pawar with Mihika

Save, i/b Shree & Co, for the Petitioner in WP/3680/2026.

Mr. M.V. Holamagi, i/b Sujit Holamagi, for the Petitioner in
WP/1528/2026.

Mr. P.G. Sawant, AGP, for the Respondents-State.

CORAM: N. J. JAMADAR, J.

DATE : 16th APRIL 2026

JUDGMENT:

WRIT PETITION NO: 3680 OF 2026:

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. This Petition under Article 226 and 227 of the Constitution of India assails the legality, propriety and correctness of an order dated 13th February 2026 passed by the Appellate Authority (R2) in Appeal No. 55 of 2025, whereby the Appeal preferred by the Petitioner against an order of cancellation of the Performance Licence dated 7th July 2025, came to be dismissed by affirming the order of cancellation of licence, passed by the Competent Authority.

3. The Petitioner runs a restaurant and bar under the name and style of “M/s Hotel Sadguru Restaurant and Bar”. The Petitioner was granted a Performance Licence, being Licence No. 515 of 2009, to keep a place of public amusement under Rule 109 of the Rules of Licensing and Controlling place of Public Amusement (other than Cinemas) and Performances for Public Amusement including Melas and Tamashas, 1960 (“the Public Amusement Rules, 1960”).

4. On 28th February 2024 at about 00.05 am and on 8th June 2024 at about 01.00 am, raids were conducted at the Petitioner's hotel. During the course of the inspection, it transpired that there were multiple breaches of the Public Amusement Rule, 1960 and the conditions of licence: (i) the size of stage was altered to 8 x 7 feet instead of 10 x 12 feet, (ii) the stage of orchestra was shifted from ground floor to the first floor, (iii) female singers were performing dance in an indecent manner, (iv) seven female singers were found concealing their presence in an enclosed room, and (v) though under the licence, the Petitioner was entitled to have eight male/female singers, on 28th February 2024, 19 female singers and 8th June 2024, 15 female and one male singers were found in the licenced premises.

5. Thus a notice was issued to the Petitioner on 11th October 2024 calling upon him to show-cause as to why the performance licence should not be cancelled.

6. As the Reply given by the Petitioner was not found satisfactory, after providing an opportunity of hearing, the Competent Authority professed to cancel the licence recording *inter alia* that there were violations of Rules 102, 122-B, 124, 219, 232 and 233 of Public Amusement Rules, 1960 and Condition Nos. 1, 2, 3 and 5 of Licence No. 515 of 2009. It was further noted that 12 crimes were registered against

the Petitioner's establishment, and in the past, twice the licence was suspended; for 7 days and 15 days, respectively.

7. Being aggrieved, the Petitioner preferred an Appeal before Respondent No.2. By the impugned order, Respondent No.2 dismissed the Appeal concurring with the view of the Competent Authority.

8. Being further aggrieved, the Petitioner has preferred this Petition.

9. It would be contextually relevant to note that the Petitioner has also preferred Writ Petition No. 1528 of 2026, assailing the order dated 7th July 2025 passed by the Competent Authority and a communication dated 28th July 2025, whereby the Competent Authority declined to review its first order. The Petitioner appeared before the Court in person and elected to pursue Writ Petition No. 3680 of 2025.

10. Mr. R.D. Soni, the learned Counsel for the Petitioner, submitted that the impugned order is a verbatim reproduction of the show-cause issued by the Competent Authority. The Appellate Authority has not bestowed any independent consideration. Therefore, on this count alone, the impugned order as well as the order passed by the Competent Authority are required to be quashed and set aside.

11. Secondly, Mr. Soni would urge, the inspection report and the panchnamas, purportedly drawn at the time of alleged raids, were not placed either before the Competent Authority or before the Appellate Authority. Thus, it cannot be said that the Competent Authority has

recorded a finding on the basis of objective material that there were breaches of the specified Rules or the conditions of licence.

12. Thirdly, despite repeated enunciation by this Court that mere pendency of the crimes against an establishment cannot be a ground for cancellation of the licence, the Competent Authority has taken into account the mere pendency of the crimes and passed the order of cancellation of the licence. The Appellate Authority has also completely failed in its duty to evaluate the legality and correctness of the order passed by the Competent Authority in exercise of its appellate jurisdiction.

13. In contrast, Mr. P. G. Sawant, the learned AGP, made an endeavour to support the impugned order. It was submitted that, the Competent Authority has considered the Reports of violation of the Rules and conditions of licence and, on that basis, passed a reasoned order in observance of the principles of natural justice. Thus, no interference is warranted in the impugned order in exercise of writ jurisdiction.

14. The legality and justifiability of the order of cancellation of licence deserves to be tested on the ground, whether the Competent Authority has arrived at the satisfaction that there was violation of the Rules and conditions of licence, on the basis of objective material.

15. From perusal of the order passed by the Competent Authority, it becomes explicitly clear that the Competent Authority has considered the Reports of breach dated 9th March 2024 and 10th June 2024, purportedly submitted by the concerned Officer who had conducted the raid on 28th February 2024 and 8th June 2024, respectively. In addition, the show-cause notice issued to the Petitioner on 11th October 2024 was considered. The impugned order does not indicate, even remotely, that the Competent Authority had considered either the inspection report or the panchnamas drawn by the police officer at the time of the alleged raids.

16. Mr. P. G. Sawant, the learned AGP has tendered for the perusal of the Court copies of the FIR and spot panchnama dated 28th February 2024, and copies of the FIR dated 8th June 2024 and spot panchnama dated 7th June 2024. It was submitted that the aforesaid documents substantiate the allegations of flagrant violation of the Rules and conditions of licence. However, Mr. P. G. Sawant, the learned AGP fairly submitted that, the copies of the First Information Reports and the spot panchnamas drawn at the time of alleged raids were not placed before the Competent Authority. Evidently, the Competent Authority has considered only the alleged Reports of violation dated 9th March 2024 and 10th June 2024. Neither, the FIRs nor spot panchnamas were placed before the Competent Authority. Thus, it cannot be said that the

Competent Authority arrived at a subjective satisfaction, on the basis of the relevant underlying material, that there was breach of the Rules and conditions of licence.

17. The Rule 238(1) and (3) of the Public Amusement Rules, 1960, read as under:

“238. Powers to suspend or cancel Licenses:—

(1) The Licensing Authority may suspend or cancel any license granted under these rules for contravention of any of these Rules or of failure of the licensee to comply with any reasonable directions which the Licensing Authority may issue in order to prevent any obstruction, inconvenience, annoyance, risk of danger to the members of the audience in the theatre provided that the Licensing Authority shall give the license an opportunity to show cause before taking any action under this sub-rule.

... ..

(3) Notwithstanding the provisions of sub-rules (1) and (2) the Licensing Authority may, in its absolute discretion at any time cancel or suspend any license granted under these rules and may direct the licensee to close the premises either permanently or temporarily, or direct him to comply with such directions and instructions that he may issue in order to prevent any obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passers-by in the vicinity or for the maintenance of public safety and the prevention of disturbance in the premises and ever licensee shall forthwith comply with any such directions or instructions given by the Licensing Authority, and if the licensee fails to comply with such directions and instructions his license shall be liable to immediate suspension or cancellation.”

18. Implicit in the aforesaid Rules is the satisfaction and finding that there is indeed contravention of any of the those Rules or conditions of licence. In the absence of the copies of the Reports and spot panchnamas, the Competent Authority was, in a sense, disabled from forming an informed opinion about the violation of the Rules or conditions of licence. The necessary implication is that, the Competent Authority passed the order of cancellation of licence solely on the basis of the Reports of violation dated 9th March 2024 and 10th June 2024.

19. Such decision of the Competent Authority cannot said to be in consonance with the principles which govern the determination by an Authority, that was taking an administrative decision which affects the civil rights of the parties. It was incumbent upon the authorities to place before the Competent Authority the Report and the spot panchnamas. Thus, I find substance in the submissions on behalf of the Petitioner.

20. A useful reference in this context can be made to an order passed by this Court in the case of **Krishna B Shetty Vs State of Maharashtra and Anr.**¹ The observations in paragraph 9 read as under:

“9. It cannot be disputed that what was alleged was in fact violation of the Rules and conditions which required the concerned authority to arrive at a finding of fact that such violations had taken place. As the proceedings were initiated upon police inspection of the premises and panchnama was conducted, it was necessary that all the record is placed

¹ ASWP No. 2246 of 2023, decided on 16th July 2024.

before the Respondent No.2 and the Appellate Authority before a decision is taken on the show cause notice. Perusal of the order of Respondent No.2 and that of the Appellate Authority does not indicate that the police report was placed for their consideration and there is no discussion on the police report or the panchanama to arrive at a finding of acceptance of the report on record of the concerned police officers who had inspected the place and found violations.”

21. The consideration of the pending crimes against the Petitioner was also legally infirm. Suffice to note that, in a line of decisions, commencing from **Dilip J Bhatia Vs The Commissioner of Police, Thane**,² a Division Bench judgment of this Court in case of **Maruti Vitthal Gopale Vs The State of Maharashtra and Anr**,³ and the judgments of this Court in the cases of **Suresh M Mali Vs The State of Maharashtra and Ors**⁴ and **Ganpat Mahadev Patil Vs The State of Maharashtra and Ors**,⁵ this Court has consistently held that, mere pendency of a prosecution for commission of offences cannot be a ground for cancellation of the licence to run a business in the premises, or performance or amusement licence. The foundational premise is that, the indictment on the strength of which a crime has been registered is yet to be proved at the trial. In the event conviction is recorded, different consideration come into play. Till the time the matter is in the realm of allegations only, the

2 2001 1 BomCR 448.

3 WP No. 5675 of 2006, decided on 12th October 2006.

4 WP No. 7848 of 2011, decided on 24th November 2011.

5 WP/2491 of 2013, decided on 20th June 2013.

accused cannot be visited with the consequences of revocation of licence.

22. Resultantly, the order of cancellation of licence and the impugned order, which has affirmed the first order without examining the legality and validity of the former, , deserve to be quashed and set aside.

23. Hence, the following order:

- (i) Writ Petition No. 3680 of 2026 stands allowed.
- (ii) The impugned order dated 13th February 2026 as well as order dated 7th July 2025 passed by the Competent Authority, cancelling the licence No. 515 of 2009 stand quashed and set aside.
- (iii) The performance licence stands restored.
- (iv) Rule made absolute to the aforesaid extent.
- (v) In view of the election made by the Petitioner in person to prosecute Writ Petition No. 3680 of 2026 only, and the disposal of Writ Petition No. 3680 of 2026, Writ Petition No. 1528 of 2026 stands disposed.
- (vi) In view of the disposal of Writ Petition No. 1528 of 2026, Interim Application No. 1468 of 2026 also stands disposed.

[N. J. JAMADAR, J.]