
(2016) 04 SC CK 0120

In the Supreme Court Of India

Case No : Writ Petition(s)(Civil) No(s). 793 of 2014 with SLP(C) No. 13764 of 2012, SLP(C) No. 8992 of 2013, CONMT. PET.(C) No. 275 of 2014 in C.A. No. 2705 of 2006, CONMT.PET.(C) No. 248 of 2014 in C.A. No. 2705 of 2006, SLP(C) No. 15953 of 2012, SLP(C) No. 13764

Indian Hotel & Restaurant Association & Another	APPELLANT
Vs	
State of Maharashtra & Another	RESPONDENT

Date of Decision : 25-04-2016

Acts Referred:

Bombay Police Act, 1951 — Section 33A
Constitution of India, 1950 — Article 14, 19(1)(G)

Citation : (2016) 5 Scale 604 : (2016) 15 SCC 330

Hon'ble Judges : Dipak Misra and Shiva Kirti Singh, JJ.

Bench : Division Bench

Advocate : Jayant Bhushan, Sr. Advocate, Prasenjit Keswani, Satyajit Saha, Advocates, V.D. Khanna, AOR, Manoj K. Mishra, AOR Sandeep Kr. Dwivedi, Umesh Dubey, Ms. Meghna Kalra, Pradeep Kr. Dwivedi, Advocates, for the Appellant; Sanjiv Sen, Sr. Advocate, Sandeep Deshmukh, Advocate, Nar Hari Singh, AOR Dr. Rajeev Dhavan, Sr. Advocate, Nikhil Nayyar, AOR Dhananjay Baijal, N. Sai Vinod, Advocates Ms. Pinki Anand, Sr. Advocate Ms. Saudamini Sharma, Advocate, Nishant Ramakantrao Katneshwarkar, AOR Ms. Deepa Kulkarni, Advocate, Ravindra Keshavrao Adsure, AOR, for the Respondent

Final Decision : Disposed Of

Judgement

1. In pursuance of our Order dated 18.4.2016, Mr. Pradip Bhalchandra Sawant, Deputy Commissioner of Police, Headquarters-I, (Hotel Division), is personally present. He has also filed an affidavit. Relying on the affidavit, it is submitted by Ms. Pinky Anand, learned senior counsel appearing for the State of Maharashtra that most of the applicants have not complied with any of the conditions imposed by this Court and some have complied with in part and that is why licenses have not been granted. Learned senior counsel has prepared a chart which is a part of the affidavit. We intend to advert to serial Nos. 1, 2, 25, 28, 29, 30, 31, 32 and 33 of the chart. The deficiencies pointed out as far as the said applicants are

concerned, are as follows:

"Sr. No

Name of Hotels

Condition Not Complied by Licensee

1.

M/s Hotel Bombay Fancy, MRA Marg

- 1) NO NOC is obtained from BMC health department in view of Dance Bar License
- 2) The conditions laid down by chief fire officer are not followed strictly.
- 3) Criminal antecedent of the employees are not verified.
- 4) Rangbhumii Prayog parinirikshan Mandal certificate is not obtained.
- 5) Non removable railing of 3 ft. height adjacent to the dance stage is not fixed.

2.

M/S Hotel May Rose, Azad Maidan

- 1) NOC from BMC health department in view of Dance Bar License is not obtained.
- 2) The conditions laid down by chief fire officer are not followed strictly.
- 3) Criminal antecedent of the employees are not verified.
- 4) Rangbhumii Prayog parinirikshan Mandal certificate is not obtained.

25.

M/S Hotel Ratna Park, Andheri

- 1) NOC from BMC health department in view of Dance Bar License is not obtained.
- 2) Criminal antecedent of the employees are not verified.
- 3) The conditions laid down by chief fire officer are not followed strictly.
- 4) Rangbhumii Prayog parinirikshan Mandal certificate is not obtained.

28.

M/s Goldan Palace, Andheri

- 1) NOC from BMC health department in view of Dance Bar License is not obtained.
- 2) Criminal antecedent of the employees are not verified.
- 3) The conditions laid down by chief fire officer are not followed strictly.

4) Rangbhumī Prayog parinirikshan Mandal certificate is not obtained.

29.

M/s Urvashi Bar & Rest, Andheri

1) NOC from BMC health department in view of Dance Bar License is not obtained.

2) Criminal antecedent of the employees are not verified.

3) The conditions laid down by chief fire officer are not followed strictly.

4) Rangbhumī Prayog parinirikshan Mandal certificate is not obtained.

30.

M/s Auro Punjab, Andheri

1) NOC from BMC health department in view of Dance Bar License is not obtained.

2) The conditions laid down by chief fire officer are not followed strictly.

3) Criminal antecedent of the employees are not verified.

4) Rangbhumī Prayog parinirikshan Mandal certificate is not obtained.

31.

M/s Durgaprasad, Andheri

1) NOC from BMC health department in view of Dance Bar License is not obtained.

2) The conditions laid down by chief fire officer are not followed strictly.

3) Criminal antecedent of the employees are not verified.

4) Rangbhumī Prayog parinirikshan Mandal certificate is not obtained.

32.

M/s Giddi Bar & Rest, Andheri

1) NOC from BMC health department in view of Dance Bar License is not obtained.

2) The conditions laid down by chief fire officer are not followed strictly.

3) Criminal antecedent of the employees are not verified.

4) Rangbhumī Prayog parinirikshan Mandal certificate is not obtained.

5) Non removable railing of 3 ft. height adjacent to the dance stage is not fixed.

6) There should be distance of 5 ft. between non removable railing and the seats

for the customers which is not followed.

33.

M/s Hotel Saiprasad, Andheri

- 1) NOC from BMC health department in view of Dance Bar License is not obtained.
- 2) The conditions laid down by chief fire officer are not followed strictly.
- 3) Criminal antecedent of the employees are not verified.
- 4) Rangbhumii Prayog parinirikshan Mandal certificate is not obtained".

2. It is submitted by Mr. Bhushan, learned senior counsel that BMC, Health Department has already given the licence. The Department has communicated that there is nothing called "no objection" as it does not come under the purview of the health department and, therefore, it cannot be given. In our considered opinion when a hotel/restaurant is given the license by the concerned health department and there is a communication in the language which has been mentioned herein above further NOC from it is not necessary.

3. As far as the second condition is concerned, it states that the conditions laid down by the Chief Fire Officer are not followed strictly. We fail to fathom that how can it be followed strictly when the license has not been given. When there is a hotel and restaurant and there is fire license, we are inclined to think that meets the said condition. Needless to say if there would be any violation in future, appropriate action can be taken. The other condition pertains to obtaining of certificate from Rangbhumii Prayog Parinirikshan Mandal. The said certificate, as we understand can only be obtained after license is obtained not prior to that. It is because it is stated that action pertains to the arena of supervision and the supervision can only take place after the license is granted. The next condition relates to verification of criminal antecedent of employees. The said stipulation is absolutely necessary and, therefore, we direct that if any of the hotel owners has applied the verifications shall take place by the local police within a week hence and if there is no application then the same shall be done by 26.4.2016 so that steps can be taken accordingly. The other deficiencies as per the chart are increase of railing of 3 ft. height adjacent to the dance stage and maintenance of distance of 5 ft. between non-removable railing and the seats for the customers. The said deficiencies shall be made good within seven days hence. Mr. Sawant shall get it verified after being intimated about the compliance.

4. We have been apprised that four hotels, namely, M/S. Hotel Bombay Fancy, MRA Marg, M/s Hotel May Rose, Azad Maidan, Hotel Deepak, Dongari and M/s Shapoor Topsy, Dongari, were granted licenses but they have been revoked. The grounds have been mentioned in the order of revocation. Mr. Bhushan, learned senior counsel submits that they will make good the grounds within a week hence.

5. We direct the competent authority of the State of Maharashtra to carry out the verification within the time stipulated. If there is compliance the licenses shall be granted. If any other condition is to be imposed as per the conditions imposed on Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (Working Therein) Act, 2016, can be imposed by the authority as far as the said restriction pertains to prohibition of obscene dance. We have passed the present order notwithstanding the other restrictions imposed under the said Act and the rules framed thereunder.

6. Call on 10th May, 2016.