

(2016) 05 SC CK 0110

In the Supreme Court Of India

Case No : Writ Petition (Civil) No. 793 of 2014 S.L.P.(C) No. 13764 of 2012 S.L.P. (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, S.L.P.(C) No. 15953 of 2012

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

Date of Decision : 10-05-2016

Acts Referred:

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

Citation : (2016) 5 Scale 608 : (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 and Pradeep Kr. Dwivedi, Advocates, for the Appellant; Pinky Anand, ASG, Nishant Ramakantrao Katneshwarkar, AOR, Arpit Rai, Advocate, 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, Ravindra Keshavrao Adsure, AOR, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Mr. Jayant Bhushan, learned senior counsel, along with Mr. Prasenjit Keswani, learned counsel for the petitioner-Association, Ms. Pinky Anand, learned Additional Solicitor General along with Mr. Nishant Ramakantrao Katneshwarkar, learned counsel for the State of Maharashtra, Mr. Sanjiv Sen, learned senior counsel for the respondent No.5 and Dr. Rajeev Dhavan, learned senior counsel for the respondent No.3.

2. It is submitted by Ms. Pinky Anand, learned Additional Solicitor General that the eight restaurants, namely, M/s. Ratna Park Restaurant & Bar, Andheri, M/s.

Aero Punjab Restaurant & Bar, Andheri, M/s. Durga Prasad Restaurant & Bar, Andheri, M/s. Guddi Restaurant & Bar, MIDC, M/s. Sai Prasad (Classic) Restaurant & Bar, Andheri, M/s. Uma Palace Restaurant & Bar, Mulund, M/s. Natraj Restaurant & Bar, Tilak Nagar and M/s. Indiana Restaurant & Bar, Tardeo, have not been given the licenses because this Court had directed that criminal antecedents of the employees of these restaurants/hotels to be verified.

3. The singular grievance that is advanced today is that while verifying the criminal antecedents, it has come to the notice that certain employees of the restaurants and bar have been booked under certain criminal offences and, therefore, licenses have not yet been issued.

4. It is submitted by Mr. Jayant Bhushan, learned senior counsel for the petitioner that unless a person is convicted, it cannot be said that he has a criminal antecedent. The same is seriously disputed by Ms. Pinky Anand, learned Additional Solicitor General. We do not intend to address the same at present.

5. However, it is directed that an undertaking shall be given by each of the applicants who have filed applications for grant of license, that they shall not engage the employees whose names have been mentioned in the affidavit filed on 9th May, 2016, by the State of Maharashtra in the bar and dance areas. They may get engagement in other areas. The undertaking shall also contain a clause that the said employees shall not be allowed to enter the bar and dance area in the evening. The said undertaking shall be filed by 11th May, 2016. Upon such undertaking being given, the licenses shall be issued.

6. Some grievance has been made by Ms. Pinky Anand, learned Additional Solicitor General about the height of railing and on that Mr. Bhushan, learned senior counsel has submitted that the same has been complied with. Be that as it may, we direct the authorities concerned to give the licenses by 12th May, 2016, and to file a compliance report before this Court.

7. List the matter on 13th May, 2016.