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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.18893 OF 2025

JITENDRA
SHANKAR
NIJASURE

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JITENDRA SHANKAR
NIJASURE
Date: 2025.10.16
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Munib Birya & Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Zubin Bheramkamdin, Senior Counsel, Mr. Meiron Damania, Mr. Rajendra Rathod, Ms. Shabana Shah, Mr. Sohail A, Ali Bubere, Mr. Mujtaba S, Mr. Umar Dalvi, Mr. Abdullah M., Mr. Muddasir A, Mr. Zeeshan S., Mr. Bilal M and Mr. Dhruv B. Jain for the Petitioners.

Ms. P.H. Kantharia, Govt. Pleader with Ms. Jyoti Chavan, Addl. G.P. for Respondent Nos.1 to 4.

Mr. Bajrang Bansode, DCP, Crime Branch Mumbai is present.

Mr. Ninad Sawant, ACP, Crime Branch, Mumbai is present.

Mr. Jadhav, API, Crime Branch, Mumbai is present.

Mr. S.S. Sahastrabudhe, Dy.SP (DG Office) is present.

Mr. Sandeep Nigade, PI, (Navi Mumbai) is present.

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

DATE : 14TH OCTOBER, 2025.

ORDER :

1. By this Writ Petition, the Petitioners are seeking a direction to the Respondents to comply with the said Order dated

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22nd August, 2019 passed by this Court in so much as the same permits the Petitioners to serve herbal hookah and / or tobacco free hookah and therefore not to interfere with their serving of the same at their restaurants / establishments. Further, direction to the Respondents is sought to forthwith stop their illegal and unlawful raids and threats on the Petitioners' restaurants / establishments and to comply with the said Order dated 22nd August, 2019 passed by this Court in *Munib Birya & Ors. V/s. State of Maharashtra & Ors.*¹ There are other consequential relief has been has been sought in the Petition.

2. There are additional Affidavits in Reply dated 25th September, 2025 and 30th September, 2025 tendered by the learned Counsel for Respondent No.4 and which are taken on record.

3. After hearing the learned Senior Counsel for the Petitioners and the learned Government Pleader for Respondent Nos.1 to 4 and perusing the said Order dated 22nd August, 2019 passed by this Court which is applicable in the present case, we consider it appropriate to dispose of the Petition by directing the

¹ Writ Petition No.3978 of 2019 dated 22nd August, 2019.

Respondents to act in conformity with the Cigarettes and other Tobacco Products Act, 2003 (COTPA) and in particular the amendment in the year 2018 by which in Section 3 of the said Act, after clause (e), Clause (ee) is inserted which provides that “hookah bar” means an establishment where people gather to smoke tobacco from a community hookah or narghile which is provided individually.

4. The Petitioners are not prohibited from running a business of restaurant or serving hookah which according to the Petitioners do not contain tobacco or nicotine.

5. In the event, if there is any infraction of the provision of COTPA as amended in the year 2018, the Police Officer, not below the rank of the Assistant Police Inspector, is empowered to take legal action for the infringement of the conditions imposed under COTPA Act as well as taking action on the hookah parlours where drugs / narcotics are provided and consumed which falls under the purview of Police Department.

6. As long as the Petitioners comply with the provisions of COTPA and do not serve any prohibited substance in the hookah

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parlour then no action can be taken against them. The Respondents shall strictly act under the provisions of COTPA. If it is found that the Petitioners are selling / using any substance prohibited under the COTPA then surely an action can be taken against them.

7. The Writ Petition is accordingly disposed of.

8. The learned Govt. Pleader is directed to communicate this Order to all concerned authorities.

[FARHAN P. DUBASH, J.]

[R.I. CHAGLA J.]