

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 430/2023

Phonographic Performance Limited

----Petitioner

Versus

State Of Rajasthan

----Respondent

Connected with

S.B. Civil Writ Petition No. 471/2023

Novex Communications Pvt. Ltd.

----Petitioner

Versus

The State Of Rajasthan

----Respondent

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For Petitioner(s)	:	Mr. Virendra Lodha, Sr. Adv. assisted by Mr. H.V. Nandwana Mr. Rajendra Prasad, Sr. Adv. assisted by Mr. Atishay Jain Mr. Akhil Sibal, Sr. Adv. through VC Mr. Akash Shrivastava Mr. Ankur Sangal
For Respondent(s)	:	Mr. Rajesh Maharshi, AAG with Mr. Udit Sharma, Mr. Yuvraj Singh Kachhawa and Ms. Kinjal Surana

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**HON'BLE MR. JUSTICE SUDESH BANSAL**

**Order**

**23/01/2023**

1. On behalf of respondents, Additional Advocate General put in appearance and seeks time to file reply. Service stands complete.
2. Learned Senior Counsel appearing on behalf of petitioner prays to stay the operation of the impugned letter dated 7.12.2022 issued by the Additional Police Commissioner-I, Jaipur.
3. It has been argued that vide impugned letter, provisions of Section 52(1) (za) of the Copyright Act, 1957 (hereafter "the Act

of 1957") has been interpreted in erroneous manner and without jurisdiction, the issuance of such letter violates copyrights of petitioners as well as deprive them to take legal remedies including civil and criminal against persons who infringes their copyrights. It has been argued that in the garb of the impugned letter, hoteliers, event managers and DJs in the private function and parties can play music/sound recordings for commercial purposes also over which the petitioners have copyrights. While provision of Section 52(1) (za) of the Act of 1957 itself is very clear and the issuance of impugned letter is arbitrary as much as in abuse of powers, just to extend benefit to hoteliers/ event managers/DJs.

4. Counsel has pointed out that Government of India issued a public notice dated 27.8.2019 wherein Section 52(1) (za) of the Act of 1957 was interpreted and the necessity of license was exempted which was analogous to the impugned letter dated 7.12.2022. The said public notice was challenged before the High Court of Punjab and Haryana at Chandigarh by filing **CWP No.28758/2019, Novex Communications Pvt. Ltd. Vs. Union of India and Another**. After hearing both parties the High Court vide judgment dated 19.5.2022 has quashed the said public notice with observation that such notice is without jurisdiction as respondents have no jurisdiction to interpret Section 52(1) (za) of the Act of 1957 in their own manner.

5. Per contra, Additional Advocate General has argued that the letter dated 7.12.2022 has been issued to maintain law and order and it does not permit hoteliers/event managers/DJs to play music/sound recordings for commercial purposes, which are duly

registered under the Act of 1957, without obtaining license from the registered copyright holders.

6. Having heard counsel for both parties, taking into consideration the spacious language used in the impugned letter dated 7.12.2022 as also the judgment in the case of **Novex Communication Pvt. Ltd. (supra)**, as an interim measure, this Court deems it just and proper to stay the operation of impugned letter dated 7.12.2022 to the extent that this letter would not be treated as permission to any person hoteliers/event managers/DJs to play music/sound recordings for commercial purposes without obtaining license/permission from the registered copyright holders. The impugned letter will not deprive the petitioners to initiate legal proceedings, civil and criminal, as envisaged under the Act of 1957 against the persons who infringes copyrights of petitioners.

7. List after four weeks.

**(SUDESH BANSAL),J**