

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(C) 6957/2011 & C.M. No.15965/2011**

Decided on 22.09.2011

IN THE MATTER OF :

MOHD. SAGIR AHMAD Petitioner
Through : Mr. Sanobar Ali, Adv.

versus

THE COMMISSIONER MCD AND ORS Respondents
Through : Mr. Mukesh Gupta with
Ms. Manpreet Kaur, Adv. for MCD.

CORAM

* **HON'BLE MS.JUSTICE HIMA KOHLI**

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

} Yes

HIMA KOHLI, J. (Oral)

1. The present petition is filed by the petitioner praying *inter alia* for quashing of the order dated 19.8.2011 passed by respondent No.3/ Director (Veterinary Services), MCD in an appeal against a letter of revocation dated 14.5.2011 issued by the respondent No.2/Veterinary Officer, Shahdara (South) Zone, MCD, revoking the meat shop licence granted to the petitioner at Shop No.62/A, Gali School Wali, Khureji Khas, Delhi, on account of violation of the meat shop licensing policy and terms

and conditions of the licensing rules under Section 417 read with Section 430 of the DMC Act, 1957 (in short '**the Act**') and written permission under Section 416 read with Section 430 of the Act.

2. The brief facts of the case are that the petitioner was granted a municipal trade licence on 25.1.2008 for sale of meat at the aforesaid shop by the respondent/MCD. The said licence was renewed from time to time, for the last time on 4.1.2011. On 18.1.2011, a FIR was lodged against the petitioner and five other persons for slaughtering cows for their meat, which is prohibited in Delhi under the Delhi Agricultural Cattle Preservation Act, 1994. The petitioner was arrested on 9.3.2011 and remained in custody till 24.6.2011, the date on which he was granted interim bail. During this time, as per the petitioner, his wife had let out the aforesaid shop to one Shri Munna, who was running the trade of sale of meat from the said shop. On 1.4.2011, on an inspection carried out by the Veterinary Officer of the Zone, it was found that the occupant/tenant of the shop was selling unstamped meat, as a result of which, notice dated 1.4.2011 was issued to the petitioner to show cause as to why the licence granted for the meat shop should not be revoked on account of the fact that the grantee was regularly involved in sale of illegally slaughtered animals' meat.

3. Though it is the contention of the counsel for the petitioner that in the absence of the petitioner, the aforesaid notice was received by his wife and was duly replied to by her, however no copy of the said reply has

been placed on record. However, a reply dated 8.4.2011 submitted by Sh. Munna, the tenant has been placed on record as Annexure P-8, in which he has asserted that he was selling only legally slaughtered animals' meat after purchasing the same from legal meat shops in the wholesale market at Gazipur, Delhi. However, no proof of purchase in this regard was submitted along with the reply to the notice to show cause. After considering the reply filed to the notice to show cause and finding the same to be unsatisfactory, and further, finding that on previous occasions also the petitioner was found to be involved in sale of illegally slaughtered meat, the trade licence granted in his favour was revoked by the Veterinary Officer, Shahdara on 14.5.2011 by issuing a letter in that regard (Annexure P-9). Subsequently, on 11.7.2011, the aforesaid meat shop was also sealed. Aggrieved by the aforesaid revocation order, the petitioner preferred an appeal before the Director (Veterinary Services), MCD which has been dismissed by the impugned order dated 19.8.2011, dispatched by speed post to the petitioner on 5.9.2011.

4. Counsel for the petitioner states that the impugned order is liable to be set aside as respondent No.3/Director (Veterinary Services), MCD did not consider the submission made on behalf of the petitioner that a show cause notice having been issued in the name of the petitioner as a grantee of the licence, the same could not have been revoked on the basis of a reply submitted by the tenant and that the reply of the

petitioner alone could have been considered by respondent No.3 for deciding the issue of revocation.

5. Counsel for the respondent/MCD, who appears on advance copy, strongly opposes the present petition and states that the petitioner has not been able to show any illegality or arbitrariness in the impugned order, as respondent No.3/Director (Veterinary Services), MCD has duly considered the submissions made by the counsel for the petitioner and having regard to the previous background of the petitioner who had been found to be regularly involved in sale of illegally slaughtered meat, apart from the last breach mentioned in the show cause notice, has rightly passed the impugned order upholding the revocation of license.

6. A perusal of the impugned order shows that after culling out the background of the petitioner, notice was taken of the fact that earlier on one occasion a raid had been conducted in another shop in the Khureji Khas area on 8.5.2009, and it was found that the petitioner was also illegally selling the meat of a cow. An FIR was registered against the petitioner and the his shop was got sealed. It was also noticed that on 18.1.2011 in another of the petitioner's premises situated at New Brajpuri, it was found that he was illegally slaughtering cows. An FIR was registered against the said offence at P.S. Jagatpuri, and pursuant to the same, the petitioner was arrested on 9.3.2011. It is further noted that in raids conducted pursuant to the issuance of the show cause notice, on 15.4.2011 and subsequent to the revocation of license, on 7.6.2011, it

was again found that illegal sale of slaughtered animals was being indulged in.

7. Pertinently, even though the show cause notice was issued on 1.4.2011, after the petitioner was admittedly taken into custody on 9.3.2011, but prior thereto on 18.2.2011 when a raid was conducted at his shop, admittedly both he and his tenant, Shri Munna were found present at the meat shop. Contrary to the assertions of the petitioner that Shri Munna was inducted by his wife in the premises after he was taken into custody, it appears from the record that Shri Munna was assisting the petitioner at the shop even prior thereto. A perusal of para 3 of the impugned order reveals that before the petitioner's arrest, raids were conducted at the shop of the petitioner on three earlier occasions, i.e., on 1.3.2011, 7.3.2011 and 9.3.2011, wherein one buffalo calf, slaughtered illegally, was found each time and a composition fee was recovered from the petitioner as also from Shri Munna, who were found selling such illegally slaughtered meat at the said shop. This was finally followed by the notice to show cause dated 1.4.2011, which resulted in the revocation of the licence granted to the petitioner.

8. It is to be noticed that in raids conducted on several occasions, the petitioner was found to be regularly flouting the provisions of the Delhi Agricultural Cattle Preservation Act, 1994 and he has till date not placed any document on record to show that the slaughtered meat found at the shop was legally purchased. This court has already taken note of the fact

that Shri Munna does not appear to be a tenant of the petitioner, as claimed by him, and was actually found assisting him in illegally selling slaughtered meat on occasions prior to the issuance of the show cause notice. Even otherwise, this argument would not be of any assistance to the petitioner, as a perusal of the appeal filed by him before respondent No.3/Director (Veterinary Services), MCD, shows that the petitioner never took the ground therein to the effect that he being the grantee of the licence, could alone have replied to the notice to show cause and in the absence of his reply, the reply of a purported tenant could not have sufficed to decide the issue of revocation of license. Having failed to take such a plea before respondent No.3, it would not be permissible for the petitioner to take this ground before this court for the first time. In any case, the grounds taken by the petitioner herein to assail the impugned order are devoid of any merit. This Court, having gone through the documents placed on record and the impugned order, is satisfied that the same does not suffer from any such illegality, arbitrariness or perversity which requires interference under Article 226 of the Constitution of India. The second and third reliefs sought by the petitioner are therefore declined, while upholding the order dated 19.08.2011.

9. As far as the first prayer of the petitioner for directions to the respondent to de-seal the shop in question is concerned, as it is stated that the petitioner has recently filed an application, along with an undertaking, in that regard, which is pending before the Deputy

Commissioner, MCD of the area, the respondent is directed to process the said application and dispose of the same in accordance with law as expeditiously as possible and preferably within a period of four weeks from today under written intimation to the petitioner.

The petition is disposed of, along with the pending application.



HIMA KOHLI, J

SEPTEMBER 22, 2011
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