IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.320 of 2015

Date of Decision: 12.3.2015

Dharampal and others

…..Petitioners

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present : Mr. Piyush Kant Jain, Advocate for the petitioners.

Ms. Mamta Singla Talwar, AAG Haryana.

Mr. Piyush Aggarwal, Advocate for respondents No.4 and 5.

S.J. VAZIFDAR, ACTING CHIEF JUSTICE: (Oral)

1. The petitioners have challenged the establishment of the liquor shop run by respondents No.4 and 5. The petitioners contend that the same is contrary to Clause 1.2.3 of the Excise Policy for the year 2013-15 read with Rule 37 Sub Rule 9 of the Haryana Liquor License Rules, 1970. Clause 1.2.3 reads as under:

> **"1.2.3 ESTABLISHMENT OF VEND AT A NEW LOCATION**
>
> No person to whom a license for retail liquor outlet is granted shall establish the same on such premises as is situated at a distance of less than 150 meters from the main gate of a recognised school/College/main bus stand and a place of worship. However, Excise Commissioner can relax such distance for the location of retail liquor outlet from 150 meters to 75 meters on the recommendations of the Deputy Excise and Taxation Commissioner (Excise). Further in urban areas, the retail liquor outlets may preferably be located in the market places."

2. The petitioners contend that the distance of 150 meters must be determined as the crow flies. The respondents, on the other hand, contend that actual distance required to transverse the area from the shop to the school is ought to be considered. If the respondents' contention is accepted the distance is likely to be more than 150 meters from the school. The respondents further contend that

there is a wall between the school in question and the said liquor shop. The location of the wall is disputed by the petitioner. Further the respondents contend that in any event, the Commissioner has the power to relax the distance from 150 meters to 75 meters on the recommendation of the Deputy Commissioner.

3. The said liquor shop run by respondents No.4 and 5 has been in existence since 2010. The license comes to an end within three weeks. It is not necessary to consider the rival contentions in this writ petition. The writ petition was filed by the residents of the area only on 19.12.2014 although they were aware of the same for about four years. That they had been making representations to the authorities is a matter different altogether. However, in view of the nature of the activity and in view of the fact that a school is also involved, the petitioners' contention cannot for all time to come to be negated only on the ground of delay and latches.

4. In the circumstances, the ends of justice would be met by directing the respondents to consider the renewal of the permission after dealing with the contentions raised by the petitioners'. The petitioners' representative shall be entitled to be heard before any renewal of the license. The petitioners' representative shall attend the office of Deputy Excise and Taxation Commissioner on 16.3.2015 at 11 A.M. The Deputy Excise and Taxation Commissioner shall also hear any other concerned party including respondents No.4 and 5 before passing any order.

5. The writ petition is disposed of accordingly.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

12.3.2015
Meenu

(G.S.SANDHAWALIA)
JUDGE