

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 06.05.2015

+ **W.P.(C) 2852/2010**

SUNITA GOEL

..... Petitioner

versus

GNCT OF DELHI AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Mr Mukesh M. Goel with Mr Indermani.

For the Respondents : Ms Ruchir Mishra, Advocate for
Mr Mukesh Kr Tiwari, for DTDC.
Ms Shobha Gupta and Mr Rajesh
Sachdeva, for R3, MCD.
Mr Ankur Garg, Mr Amit Jain and
Mr Rahul Garg, for R4.
Mr Gautam Narayan, Ms Asmita
Singh,

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J (ORAL)

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“The respondent Nos. 1 and 3 be directed to revoke, cancel the L-2 license granted to the respondent No.2 and 4 and renewed from time to time for running the retail vend of liquor at premises Shop No. 1, A-7, Milap Nagar, Uttam Nagar, New Delhi as the same is not in accordance with the Rules;

It is further prayed that respondent No.3 be directed to close and seal the said shop. ”

2. The petitioner claims to have acquired the title to the shop bearing No. 1, A7 Milap Nagar, Uttam Nagar, New Delhi (hereafter referred to as the 'shop') by virtue of a sale deed executed on 01.02.2002. The Delhi Tourism and Transport Development Corporation Limited (DTTDC) has been operating a retail liquor vend from the shop since 1988. The purpose of the present petition is to seek directions for closure of business being conducted by DTTDC from the shop.

3. It is contended that the grant and renewal of L-2 License is not in accordance with the Rule 33(1A) of the Delhi Liquor License Rules, 1976, which according to the petitioner reads as under:-

“No retail vend of country liquor of Foreign liquor for consumption “off” the premises shall be located within 75 meters from the following, namely:--

- (i) Any industrial estate or other major construction site.
- (ii) Major educational institutions;
- (iii) Religious places;
- (iv) Hospitals; and
- (v) Colonies of Labourers and harijans. ”

4. It is alleged by the petitioner that there are two *Jhuggi Jhopri* clusters which are located within 75 metres of the shop. It is, therefore, contended that the grant of renewal of L-2 License in favour of DTTDC is contrary to Rule 33 (1A) of the Delhi Liquor License Rules, 1976.

5. The petitioner further contends that the shop is not located in any commercial complex, therefore, the licence granted to DTTDC to operate a liquor vend from the shop also offends Rule 33(8) of the said Rules, which reads as under:-

“(8) The licensed premises should be a pucca building in a commercial complex recognized as such by the local bodies including DDA/MCD/NDMC etc. with adequate storages facilities and proper electrical fittings. The licensed premises should be duly insured against fire and other natural hazards. The licensee shall keep the premises thoroughly clean and dry shall comply with the orders issued by the Collector of Excise for the removal of defects in the buildings.”

6. The learned counsel for respondent has pointed out that the Delhi Liquor Licence Rules, 1976 under which the license was initially granted to DTTDC did not contain the provisions as relied upon by the petitioner. She submits that Rule 33(1A) of the said Rules as applicable in 1988 reads as under:-

“33(1A) No retail vend for country liquor or foreign liquor for consumption “off” the premises shall be located within 75 meters from the following namely:-

- (i) irrigation projects ;
- (ii) matopma ; highways ;
- (iii) major educational institutions ;
- (iv) religious places ;
- (v) factories registered under the Factories Act and Industrial Estates;
- (vi) factories registered under the Factories Act and Industrial Estates ;
- (vi) railway stations;”

7. She further submits that the said Rules have since been repealed and are no longer applicable; the grant of licences are now governed under the Delhi Excise Rules, 2010, which do not contain any stipulation similar to

the one relied upon by the petitioner.

8. The Delhi Liquor License Rules, 1976 stand repealed and the licences are now governed by the Delhi Excise Rules, 2010. Rule 51 of the Delhi Excise Rules, 2010 contains the conditions regarding location of a liquor vend. The relevant extracts of Rule 51(1) and Rule 51(9) of the Delhi Excise Rules, 2010 are relevant and are quoted below:-

“(1) No retail vend of Indian Liquor, Foreign Liquor or Country Liquor shall be located within one hundred meters from the following, namely:--

- (a) Major educational institutions;
- (b) Religious places;
- (c) Hospitals with fifty beds and above

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(9) Retail licences for consumption “off” the premises shall be permitted at sites or premises, located in a pucca building, the land use of which is commercial approved and shall conform to the orders and instructions issued by the Excise Commissioner from time-to-time.”

9. The learned counsel for the petitioner does not dispute that the Delhi Liquor Licence Rules, 1976 stand repealed and the Delhi Excise Rules, 2010 do not provide for any restriction with regard to granting licence in respect of premises situated in the vicinity of Labourer/Harijan colonies. He, however, submits that on the date of the petition the Delhi Liquor Licence Rules, 1976 as applicable did contain the aforesaid stipulation and, therefore, the grant of renewal of licence was contrary to then prevalent Rules. And, therefore, the licence granted to DTTDC ought to be revoked. I do not find any substance in this contention. Clearly, the condition relied

upon was not applicable when the licence in question was granted. The same is also not applicable today. Therefore, a direction to revoke the licence in question is, plainly, not warranted.

10. The learned counsel for the respondent has also pointed out that the shop is located on Najafgrah Road which is notified as a commercial street in west zone, under the Master Plan for Delhi, 2021. Thus, the petitioner's contention that the shop in question is located on a street where commercial use is not permitted, is without merit.

11. In the aforesaid circumstances, the petitioner's contention that operating a liquor vend from the shop offends the applicable rules cannot be accepted. Accordingly, the present petition is bereft of any merit.

12. Before concluding, it would be necessary to observe that the present petition is, essentially, a manifestation of a private landlord-tenant dispute. Apparently, the petitioner had acquired the title to the shop in 2002 and is desirous of evicting the DTTDC from the said shop. The present petition is an aid of this private dispute which has been camouflaged for seeking a public law remedy. In the aforesaid circumstances, I consider it appropriate that the petition be dismissed with costs of ₹25,000/-. The cost will be deposited by the petitioner with the Delhi High Court Legal Services Committee within a period of two weeks from today.

VIBHU BAKHRU, J

MAY 06, 2015

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