

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1638 of 2015

1. M/s Juneja Ventures A Partnership Firm Duly Registered Under The Relevant Provisions Of The Indian Partnership Act, 1956 Acting In The Premises Through Its Partner Shri Harshdeep Singh Juneja, Son Of Late Mangal Singh Juneja, Aged About 33 Years, Resident Of VIP Road, Raipur. (Chhattisgarh)
2. Harshdeep Singh Juneja, S/o Late Mangal Chand Juneja, aged about 33 years, Partner- M/s Juneja Ventures, VIP Road, Raipur, Civil & Revenue Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home Affairs, Mahanadi Bhawan, Secretariat, Naya Raipur, District Raipur. (Chhattisgarh)
2. The Secretary, Department Of Excise, Mahanadi Bhawan, Secretariat, Naya Raipur, District Raipur (Chhattisgarh)
3. The Collector, District Raipur (Chhattisgarh)
4. The Superintendent Of Police, District Raipur (Chhattisgarh)
5. The Station House Officer, Police Station Telibandha, Raipur (Chhattisgarh)
6. The Municipal Corporation, Through Its Commissioner, Raipur
7. The Commissioner, Municipal Corporation, Raipur (Chhattisgarh)

---- Respondents

For Petitioners	Shri B. P. Sharma, Advocate
For Respondent/State	Shri Shashank Thakur, GA
For Respondent Corporation	Shri H. B. Agrawal, Senior Advocate with Ms. Meera Jaiswal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

15/01/2016

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioners are running their business in the name and style of 'Mocha Coffees & Conversations" at VIP Road, Raipur. Their grievance in the present writ petition is that the respondent authorities are illegally treating the petitioners' business premises as place of public nuisance by issuing the communication dated 07.09.2012 (Annexure-P-7). A prayer has been made for direction to the respondent authorities for grant of licence to run the business for allowing the persons to smoke within a place earmarked for them, if the petitioners are obliged in any provisions under any existing law for obtaining such licence.
3. Shri Sharma, learned counsel for the petitioners, would submit that the petitioners are providing facility to the customers for smoking *hukka* having fruit flavoured substance. The petitioners also intend to provide cigarette smoking facility to the customers, for which the arrangements have been made in terms of Section 4 of the Cigarette and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter would be referred to as 'the Act, 2003'). He would submit that if such facility is provided inside a hotel or restaurant, a licence is not required for the purpose.
4. Learned State counsel and learned Senior counsel for the respondent Corporation would submit that the members of the locality have objected to the petitioners' firm selling illegal drugs from the premises without obtaining any licence. Since such activity is creating nuisance,

the concerned Police has issued the letter (Annexure-P-7) and the proceedings under Section 151 Cr.P.C. was initiated and the Manager was taken into custody as a preventive measure.

5. Having heard learned counsel for the parties, it would appear that under Section 4 of the Act, 2003, a hotel having 30 rooms or a restaurant having sitting capacity of 30 persons or more may provide facility of smoking of cigarette or tobacco product by earmarking an area for the said purpose, which should remain separate from the remaining areas. The respondents have not pointed out any provisions, under which a licence is required for providing smoking facility in the area referred under Section 4 of the Act, 2003. Since the petitioners have claimed that they have 30 rooms in their hotels and the restaurant is having sitting capacity of 30 persons or more, they may point out the area, which they will use for smoking of cigarette or *hukka* containing tobacco. No other area than the marked area shall be used for the above purpose. If under any existing law including by-laws or regulation, obtainment of a licence is required, the respondents shall intimate the petitioner about such requirement and thereafter the petitioner shall obtain such licence, in accordance with law.
6. It is made clear that if any other nuisance or illegal activity is performed or committed in the premises, it will be open for the law enforcing agency to proceed against the petitioner, in accordance with law.
7. The writ petition stands disposed of in the above terms.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA