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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 984/2016 & CM APPLs. 4309/2016, 4310/2016

M/S SATHISH STORE Petitioner
Through Mr. Yogesh Kumar, Advocate

versus

THE SPECIAL COMMISSIONER (ADMN.),
DEPTT. OF FOOD & SUPPLIES & ORS Respondents
Through Mr. Santosh Kumar Tripathi, ASC (Civil), GNCTD.
Mr. S. Chakraborty, R-2 in person.

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Date of Decision: 18th February, 2016

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed challenging the order dated 27th January, 2016 passed by respondent no. 1, whereby the petitioner's appeal was dismissed and the order dated 3rd November, 2015 passed by respondent no. 2 was upheld. Petitioner also seeks quashing of the order dated 3rd November, 2015 passed by respondent no. 2 whereby Fair Price Shop (for short "FPS") licence/ authorisation of petitioner was suspended and the security was forfeited on the ground that petitioner had shifted the premises of its FPS from F-3, Dakshin Puri Market to F-18 & 19, Dakshin Puri Market without prior approval of respondents.

2. Learned counsel for petitioner refers to page 46 of the paper book to contend that petitioner had shifted its FPS to the new location after taking temporary permission from the Assistant Commissioner (Central), Department of Food and Supplies.

3. Learned counsel for petitioner also points out that the Joint Commissioner (New Delhi & Central) in its order dated 25th August, 2014 had recorded the

admission of Shri R.K. Rathee, Assistant Commissioner (Central) to the effect that he had granted temporary permission to the petitioner to run FPS at the new address.

4. Issue notice.

5. Mr. Santosh Kumar Tripathi, learned additional standing counsel accepts notice. He states that the petitioner had not produced before the Appellate Authority the document granting temporary permission by Assistant Commissioner (Central).

6. A perusal of the paper book reveals that the Appellate Authority vide its order dated 25th August, 2014 after considering the temporary permission granted by Mr. R.K. Rathee, Assistant Commissioner (Central) had remanded the matter to Assistant Commissioner (New Delhi) for a final decision within thirty days.

7. However, instead of acting on the remand order, respondents issued fresh show cause notices dated 7th August, 2015 and 13th October, 2015.

8. In the opinion of this Court, since the matter had been remanded, there was no question of issuing fresh show cause notices on the same allegations. Further, as temporary permission letter annexed with the appeal had not been considered by the Appellate Authority, this Court is of the view that the present writ petition needs to be allowed.

9. Accordingly, the impugned order dated 27th January, 2016 passed by respondent no. 1 is set aside and the matter is remanded to the respondent no. 2 to decide the same afresh after taking into account the Joint Commissioner's initial order dated 25th August, 2014 as well as the temporary permission annexed at page no. 46 of the paper book. Respondent no. 2 is directed to decide the matter as expeditiously as possible, preferably within two months.

10. With the aforesaid directions, present writ petition and applications stand disposed of.

MANMOHAN, J

FEBRUARY 18, 2016

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