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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 4446/2016

RAHEES ALI

..... Petitioner

Through: Mr. Habibur Rahman, Advocate.

versus

APMC AND ORS

..... Respondents

Through: Ms. Avnish Ahlawat, Advocate with
Mr. Latika Chaudhry, Advocate for
respondents No.1 and 2.
Mr. Gurman Chahl, Advocate for
respondent No.3.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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16.05.2016

CM Appl. 18575/2016 (exemption) in W.P.(C) 4446/2016

Allowed, subject to just exceptions.

W.P.(C) 4446/2016

Present writ petition has been filed seeking a direction to the respondents to issue a valid license "A-Category" to the petitioner so as to enable him for allotment of a shop in Ghazipur Mandi.

Petitioner states that during shifting of Shahdara Mandi to Ghazipur Mandi, petitioner had surrendered his shop and paid the requisite license fee. He points out that apart from the petitioner all the other shopkeepers, vendors were allotted shops in the Ghazipur Mandi.

Petitioner filed a writ petition seeking allotment of a shop. However, the same was dismissed as withdrawn on the ground that petitioner did not have a valid license.

Learned counsel for petitioner lays emphasis on the second paragraph of the order dated 15th April, 2015 which reads as under:-

“The learned counsel for the respondents, who appears on advance notice, says that in these circumstances the petitioner, may perhaps, be free to vend in areas outside the Gazipur Subzi Mandi subject to requisite permissions being given by the civic authorities.”

In the opinion of this Court, learned counsel for respondents had only stated that petitioner is free to outside Ghazipur Subzi Mandi and not within the Ghazipur Mandi as has been sought in the present writ petition.

In any event, the present writ petition is barred by laches as it has been filed fifteen years after the alleged surrender of the shop.

The Supreme Court with regard to delay and laches in ***State of Madhya Pradesh and another vs. Bhailal Bhai & Anr., AIR 1964 SC 1006*** has held, *“.....Learned Counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art.226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Art. 226 can be measured. This Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable.....”*

Moreover, the Supreme Court in ***Banda Development Authority, Banda Vs. Moti Lal Agarwal & Ors., (2011) 5 SCC 394*** has held “*It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self-imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallised rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.*”

Consequently, present writ petition is dismissed on the ground of laches.

MANMOHAN, J

MAY 16, 2016

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