

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 13161 of 2017

Date of Decision: 19.7.2017

Intjamian Committee, Jama Masjid, Kharar

....Petitioner.

Versus

State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AMIT RAWAL.**

PRESENT: Mr. Pankaj Jain, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the liquor licence issued to respondent No.5 to carry out the business of liquor vends. Further, a writ of mandamus has been sought directing respondents No.1 to 4 to direct respondent No.5 to re-locate liquor vend on Hospital Road, Kharar and shift the same from Shop No.7, Hospital Road, Kharar and to close down the liquor vend located within the thickly populated residential colony near Jama Masjid.

2. Respondent No.5 had been granted licence to carry on the business of liquor vend in Kharar and in pursuance thereto, he opened one liquor vend on Hospital Road, Kharar in a shop situated in a thickly populated residential area. As per the site plan (Annexure P-1), the vend is located at Hospital Road, Kharar in the most busy road of the town. There

are three educational institutions and apart from that, there is hospital just about 400 meters, Kharar Bus Stand is about 300 meters and Jama Masjid is around 48 meters away from the vend as is clear from the site plan (Annexure P-2). When the said liquor vend was opened by respondent No.5, there was great resentment among public at large and accordingly, respondent No.5 filed a civil suit (Annexure P-3) before the Additional Civil Judge (Senior Division), Kharar seeking decree of permanent injunction restraining the defendants, i.e. inhabitants of the locality from interfering in the working of the liquor vend. The defendants filed their written statement (Annexure P-3). The trial Court vide order dated 22.5.2017 relying upon the report alleged to have been submitted by the Assistant Excise and Taxation Commissioner on 12.4.2017 (Annexure P-4 Colly) to the SDM, Kharar granted injunction in favour of respondent No.5. Thereafter, the petitioner sent the representations (Annexure P-5 Colly) to the SDM/MC, Kharar and respondent No.2 for closure of the liquor vend, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved the representations (Annexure P-5 Colly) to the SDM/MC, Kharar and respondent No.2, but no action has so far been taken thereon. He, however, prayed that liberty be granted to the petitioner to file a detailed and comprehensive representation before respondent No.4 by incorporating the grievance as raised in the present writ petition, however, direction be issued to the said respondent to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the petitioner, perusing the

present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioner to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before respondent No.4 within a period of one week from the date of receipt of certified copy of the order. It is directed that in the event of a representation being filed by the petitioner, the same shall be decided by respondent No.4 in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.5 within a fortnight from the date of receipt of the representation.

(AJAY KUMAR MITTAL)
JUDGE

July 19, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No