

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 7388 of 2017 (O&M)

Date of Decision: 18.04.2017

Apex Restaurants Private Ltd. and others

.....Petitioners

Versus

Union Territory of Chandigarh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Puneet Bali, Sr. Advocate with
Mr. Vibhav Jain, Advocate
for the petitioners.

RAJESH BINDAL,J.

Petitioners have filed the present petition challenging the notification dated 16.3.2017 issued by the Chandigarh Administration in partial modification of its earlier notification dated 21.10.2005 declaring the Major District Roads in the city. Earlier the aforesaid notification was challenged vide "CWP No. 5594 of 2017" titled as "*Arrive Safe Society of Chandigarh Versus Union Territory of Chandigarh and another*". The plea raised therein was that the action of the Chandigarh Administration to rename some of the roads which were earlier notified as State Highways was only with a view to circumvent the judgment of Hon'ble the Supreme Court in Civil Appeal Nos. 12164/12166 of 2016 "*The State of Tamilnadu Rep. By its Secretary Home, Prohibition & Excise Dept. & Ors. Vs. K. Balu*

and Anr., decided on 15.12.2016. The aforesaid writ petition was dismissed vide judgment dated 29.3.2017.

The petitioners herein have challenged the notification claiming that the road connecting State of Haryana on one side and State of Punjab on the other side and named as Madhya Marg while passing through the City has been wrongly retained as State Highway whereas neither in the State of Punjab nor in State of Haryana the connecting roads are State Highways. The other roads in the City which are more in length than the road in question have been changed to District roads. In the entire process the Bar and Restaurant owners who are having their business establishments on the road in question, have been badly affected. They had raised huge loans for their business. Lot of employees have been rendered jobless. Action of the Administration being discriminatory, the notification deserves to be set aside.

After hearing learned counsel for the petitioners, we do not find any reason to interfere in the present petition. We have already discussed in *Arrive Safe Society's case* (supra) that there is no enactment applicable in Chandigarh in terms of which the roads are notified as State Highways. The validity of the notification could be examined in the light of provisions of any applicable enactment in case the same is in-violative thereof. Examination of validity of any notification merely on the plea of discrimination will not be a safe method to opine that the notification is either valid or invalid. As regards applicability of the restrictions on sale of liquor within 500 meters is concerned, the rigors of earlier judgment of Hon'ble the Supreme Court, were relaxed in the subsequent order passed on 31.3.2017.

In the light of the aforesaid legal position as existing today, we do not find any reason to interfere in the present petition and the same is accordingly dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

18.04.2017
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Whether speaking/reasoned	√ Yes/No
Whether Reportable:	Yes/No