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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1055/2016 & CrI.M.A. 4539/2016

SANJAY ARORA Petitioner

Through: Mr. Suresh Sharma, Adv.

versus

STATE (NCT OF DELHI) Respondent

Through: Mr. Hirein Sharma, APP for the State
SI Pawan Yadav, PS Paharganj

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **14.11.2017**

Vide this petition the petitioner seeks setting aside the order dated 18.2.2016 of the learned Judge Evening Court No.2, Tis Hazari Courts, Delhi qua DD No.9A/14.02.2016, P.S. Pahar Ganj under Section 28/112 Delhi Police Act whereby the accused therein i.e. Jugul Kishor, the employee of Mr. Sanjay Arora, upon pleading guilty was convicted for the offence punishable under Sections 28/112 of D.P. Act, qua which a fine of Rs.50/- was imposed which was also paid by the said employee of the present petitioner. A further direction was issued vide order dated 18.02.2016 by the learned Judge Evening Court No.2, Tis Hazari Courts to the SHO concerned of P.S. Pahar Ganj to file a closure report of Dhaba at 116, Amrit Kaur Market, Pahar Ganj, Delhi along with photographs and affidavit.

Vide the present petition, the petitioner seeks the setting aside of the said order dated 18.2.2016 submitting to the effect that vide the

said impugned order the Dhaba has been directed to be closed with the challan having been made against Jugal Kishor, the employee of the petitioner despite the name of the employer running the Dhaba having been mentioned on the board.

The learned APP for the State submits that the proceedings in relation to the said DD entry under Section 28/112 of D.P. Act had been initiated because the Dhabha was not running within the appropriate time period and was running between the period 1.00 am to 5.00 p.m. inasmuch as it was open at 3.00 am. Vide the order dated 15.3.2016 of this Court itself it has been observed to the effect that the petitioner had a valid license till 31.3.2016 and had been running the Dhabha for the last 40 years. The license had been renewed and the petitioner had been allowed to continue to run the Dhabha without any hindrance.

As per the order dated 15.3.2016 of this Court itself on the expiry of the license of the licence, the petitioner could apply afresh to the concerned authority and the order dated 18.2.2016 passed by the learned M.M. would not come in the way of the petitioner, if otherwise the petitioner was found eligible for renewal of the licence with further direction to run the Dhabha as per the time schedule mentioned in the notification issued by the State Government and any deviation there from directed to be dealt with by the SHO concerned.

Taking the said aspect into account and the reasons mentioned in the Kalandra dated 14.2.2016 DD.No. 9A under Sections 28/112 D.P. Act, P.S. Pahar Ganj, Delhi indicating that the Dhaba was running at 3.00 a.m. whereas there was restriction to the effect that

the Dhabha could not be open from 1.00 am to 5.00 a.m. and coupled with the fact that the employee of the petitioner had pleaded guilty to the said Dhabha running beyond the said prescribed time period, it is apparent that there is no infirmity in the order of the learned M.M. However, the petitioner is now still running the Dhabha, with certificate of registration of an eating house which shows that the eating house license no. ETHL/ JOINT CP/LIC/996179/Paharganj dated 18.03.2015 has since been renewed upto 31.3.2018, copy of the license is directed to be placed on record and has been so placed on record.

In terms of the proceedings dated 15.3.2016 of this Court the petitioner can continue to run the Dhabha as directed thereby as per the time schedule mentioned in the notification issued by the State Government and would be entitled to seek renewal of the license in accordance with law.

As directed vide order dated 15.3.2016 the order dated 18.2.2016 of the learned M.M. in Kalandara No. 9A dated 14.2.2016, P.S. Pahar Ganj would not come in the way, if otherwise the petitioner is found eligible for renewal.

No further action is required to be taken in the present proceedings.

The petition stands disposed of.

ANU MALHOTRA, J

NOVEMBER 14, 2017

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