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

+ W.P.(C) 4548/2014 & CM No.9060/2014 & 31928/2015

MOHAN LAL GULATI AND ORS

..... Petitioners

Through: Mr Ajay Gulati and Mr Puneet Singh
Bindra, Advocates.

versus

GNCT OF DELHI AND ORS

..... Respondents

Through: Ms Jyoti Taneja, Advocate for
GNCTD.

Mrs Renuka Arora and Ms Nikita
Salwan, Advocates for DSIIDC for R-
3.

Mr Ashok K. Singh, Advocate for R-
5.

SI Hardeep, PS Bhalswa Dairy.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **23.11.2017**

1. The petitioners are the residents of Mukundpur Colony and have filed the present petition, *inter alia*, praying that respondents be directed to close down/remove/shifting the liquor vend being operated in a market popularly known as Chadha Market, near PNB, Mukundpur, Delhi-110042.
2. The grievance of the petitioner is that a liquor vend is being operated in the area where the petitioners reside and they allege that the same has now become a nuisance for the residents of the area. It is alleged that liquor vend opens at 10:00 am and closes at 10:00 pm each day. It is further stated

that a large number of persons converge around the shop and after purchasing liquor, they consume the same then and there. It is alleged that the area around the liquor shop has been converted into the garbage dump, as a large number of people who purchase liquor from the shop consume the same and throw empty bottles, glasses etc. on the vacant area beside the liquor vend. The petitioners have also annexed photographs of the area to substantiate their averments.

3. The petitioners further contend that the liquor vend is unauthorized and contrary to the express provisions of Delhi Excise Rules, 2010 (hereafter the 'Excise Rules'), which permit issuance of license only in building approved for commercial use.

4. The learned counsel for the respondents submitted that the entire area is an unauthorized area and apart from the liquor vend in question there is no other liquor vend in the entire area. The learned counsel for the respondents also submitted that the Excise Department had granted the license to the Delhi State Industrial and Infrastructure Development Corporation (hereafter 'DSIIDC') to run a retail vend for sale of Country Liquor at Khasra Number 307/202, Village and Post Mukundpur, Outer Ring Road, Delhi in September 2004 as per the then prevailing Delhi Liquor Licensing Rules, 1976. It is stated that at the material time, the use of land was mentioned as plot/house/shops. The learned counsel for the respondents also emphasized that a special sanction had been obtained from the Hon'ble Lt. Governor of Delhi for running a liquor vend in the area.

5. The learned counsel for the DSIIDC also submitted that the liquor

shop in question is the only liquor vend serving liquor in the area and has sales of approximately ₹1 lakh per day. She submitted that the removal of the liquor vend would encourage the residents to purchase spurious liquor, which would not be in public interest and ought to be avoided under all circumstances.

6. I have heard the learned counsel for the parties.

7. The principal question to be addressed is whether the issuance of license is contrary to the Excise Rules. Rule 51(9) of the Excise Rules reads as under:-

“51.(9) Retail licences for consumption “off” the premises shall be permitted at sites or premises, located in a pucca building, the land use of which is commercial approved and shall conform to the orders and instructions issued by the Excise Commissioner from time-to-time.”

8. There is no dispute that the liquor vend is located in a building, the land use of which is not approved as commercial.

9. In view of the above the license in respect of the liquor vend in question is plainly in violation of Rule 51(9) of the Excise Rules.

10. The contention that since the entire area is unauthorized including the residential units, liquor vend ought to be permitted at the given location cannot be accepted. Merely, because certain persons have raised an unauthorized colony would not entitle the respondents to act contrary to law. The respondents, being State, have to ensure that they comply with the laws in force.

11. The contention that closure of the liquor vend in question would encourage sale of spurious liquor, is no ground for the petitioner to act in violation of the statute. Thus even if it is accepted that closure of the Liquor vend may have adverse effects, issuing licences contrary to the Excise Rules cannot be countenanced. It would, of course, be open for the DSIIDC to relocate the vend in an authorized commercial building in the vicinity.

12. It is also contended that the Lieutenant Governor had granted special approval for opening of the said liquor vend. This Court finds it difficult as to how the same would cure the illegality in issuance of the licence in question, since admittedly the shop in question is not in a building that is approved for commercial use. The learned counsel for the respondents have also not drawn the attention of this court to any provision of law, which would entitle Lieutenant Governor to issue directions contrary to the statute.

13. In the circumstances, the respondents are directed to revoke the license for the operation of the liquor vend in question and to ensure that the retail outlet in question is closed forthwith.

14. The petition and the applications are disposed of with the aforesaid directions.

VIBHU BAKHRU, J

NOVEMBER 23, 2017
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