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

\+ W.P.(C) 11295/2016 and CM No. 44216/2016

DOR WELFARE FOUNDATION ..... Petitioner
Through: Mr Rajeev Saxena, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) & ORS ..... Respondents
Through: Mr Khalid Arshad, Advocate for R-1 & 2.
Ms Sujata Kashyap with Ms Atika Khan, Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 22.08.2017

1. The petitioner has filed the present petition, *inter alia*, impugning grant of licence by respondent no.2 to respondent no.3 for running a liquor vend (the liquor vend) at shop no. 1491-A and 1491-G, Ground Floor, Kashmere Gate, Delhi. The petitioner also impugns an order dated 18.08.2016 whereby the petitioner's representation for removal of the liquor vend, was rejected.

2. The principal ground urged by the petitioner is that the liquor vend in question is located near Urdu Academy and Sindhi Academy and, therefore, according to the petitioner, Rule 51(1) of the Delhi Excise Rules, 2010 is violated. It is also pointed out that there is a drug de-addiction centre located in the vicinity of the liquor vend and, therefore, the sight of the liquor vend is likely to tempt addicts; and, this should be avoided.

3. The learned counsel for the respondent disputes the contention that Rule 51(1) of the Delhi Excise Rules is violated.

4. The relevant extract of Rule 51(1) of the Delhi Excise Rules, 2010, which is relied upon by the petitioner, is quoted below:-

> "51. **Conditions dealing with licensed premises**.- (1) No retail vend of Indian Liquor, Foreign Liquor or Country Liquor shall be located within one hundred meters from the following, namely.-
>
> (a) major educational institutions;
>
> (b) religious places.;
>
> (c) hospitals with fifty beds and above:
>
> Provided that the condition mentioned in clause (c) above shall not apply for retail vend of liquor for consumption "on" the premises:
>
> Provided further that the condition of hundred meters shall apply for the licences granted after the commencement of these rules.
>
> Provided also that if any major educational institution, religious place or hospital with fifty beds or above comes in to existence subsequent to the establishment of the retail vend of Indian Liquor, Foreign Liquor or Country Liquor, the aforesaid distance restrictions shall not apply.
>
> **Explanation I-** For the purpose of clause (a) above major educational institutions would mean middle and higher secondary schools, colleges and other institutions of higher learning recognized by the Government.
>
> **Explanation II** – For the purpose of clause (b) above, a religious place would imply a religious place having a pucca

> structure with a covered area of more than 400 square feet. **Explanation III** – The measurement of distance shall be the shortest traversable distance, from the mid point of the actual main entrance/door of the premises proposed for licence to mid point of the actual main door/entrance of the building of the places mentioned in clauses (a) (b) and (c) above."

5. There is much merit in the contention advanced on behalf of the learned counsel for the respondent that the said rule is not violated. The Sindhi Academy and Urdu Academy do not qualify as "major educational institutions". A plain perusal of Explanation 1 to the said Rule 51(1) indicates that the expression 'major educational institutions' is to be read as institutions where teaching is imparted. Concededly, the Sindhi Academy and Urdu Academy are not institutions of higher learning.

6. Insofar as the contention that liquor vend is located near de-addiction centre is concerned, it is not disputed that the said centre does not qualify to be a hospital with 50 beds and above as referred to in Rule 51(1)(c) of the Delhi Excise Rules, 2010.

7. In these circumstances, this Court is not persuaded to accept that Rule 51(1) of the Delhi Excise Rules, 2010 is violated and/or that the impugned order dated 18.06.2016 is flawed.

8. Accordingly, the petition and the application are dismissed.

VIBHU BAKHRU, J

AUGUST 22, 2017/RK