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

+ **W.P.(C) 8762/2017**

WELCOME POINT

..... Petitioner

Through: Mr Prashant Katara and Mr S. Khan,
Advocates.

versus

SUB DIVISIONAL MAGISTRATE (S.D.M.)

& ANR

..... Respondents

Through: Ms Monika Tripathy Pandey and Mr
Ashutosh Kaushik, Advocates for R-
1.

Mr B. Mahapatra, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.11.2017**

CM No. 35886/2017

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 8762/2017 and CM No. 35885/2017

3. Issue notice.
4. The learned counsel appearing for respondent nos. 4, 5 and 6 accepts notice.
5. The petitioner has filed the present petition, *inter alia*, impugning an order dated 23.09.2017 passed by respondent no.1 (SDM), whereby the petitioner's restaurant namely "Welcome Point" located at 33, Ground

Floor, Hauz Khas Village, New Delhi was sealed. Admittedly, the said sealing order was passed pursuant to the closure directions issued by respondent no. 2 (DPCC) on 21.07.2017.

6. The said closure order was passed as it was found that petitioner's restaurant was not compliant with the relevant pollution laws. Concededly, the petitioner took up the matter with DPCC and thereafter had taken steps to address deficiencies that had resulted in issuance of the closure order dated 21.07.2017.

7. Thereafter, DPCC had given its consent to operate and had passed an order dated 20.09.2017, *inter alia*, stating that the earlier order dated 21.07.2017 (the closure directions) was rendered infructuous. However, it is pointed out that the said order was not communicated to the SDM immediately.

8. In the aforesaid circumstances, the SDM proceeded to pass the impugned order pursuant to the closure directions dated 21.07.2017, which had already been rendered infructuous by a subsequent order dated 20.09.2017 passed by DPCC.

9. It is apparent from the above that the impugned order has been passed on account of a miscommunication. Accordingly, the present petition is allowed and the impugned order is set aside. Respondent no.1 is directed to forthwith de-seal the petitioner's premises in question - "Welcome Point".

10. It is clarified that the aforesaid order would not come in the way of respondent no.2, (DPCC) in taking fresh action if the petitioner fails to

comply with the relevant laws.

11. The petition along with the pending application is disposed of.

NOVEMBER 28, 2017
RK

VIBHU BAKHRU, J