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

+ **W.P.(C) 8787/2017**

M/S. BULL DOGG & ORS.

..... Petitioners

Through: Mr Raghav Awasthi, Advocate for R-2.

versus

DELHI POLLUTION CONTROL COMMITTEE
& ANR.

..... Respondents

Through: Mr Biraja Mahapatra and Mr Dinesh Jindal, Advocates for R-1 (DPCC).
Mr Sumit Agarwal, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.10.2017

CM No. 35940/2017

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

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3. Issue notice.
4. The learned counsel for the respondents accept notice.
5. The petitioners has filed the present petition, *inter alia*, impugning the revocation cum closure notice dated 21.07.2017 (impugned order) ordering closure of the restaurant run by petitioner no.1 for violation of the pollution control laws.
6. It is stated that similar orders have also been issued in respect of eating houses and restaurants run by petitioner nos. 2 & 3, however, the

same has not been placed on record.

7. The principal grievance of the petitioners is that the impugned order and other closure notices have been issued without issuance of show cause notice and without affording the petitioners an opportunity of being heard. It is stated that although the impugned order revealed that show cause notice has been issued and an inspection has been carried out, in fact, no show cause notice was issued and no inspection had been carried out. This is stoutly disputed by the learned counsel for the respondents.

8. The principal allegation on the basis of which the impugned orders has been passed is that petitioner no. 1 did not have any consent order from respondent no.1 (Delhi Pollution Control Committee), which is mandatory for running an eatery. It is contended that orders in respect of petitioner no. 2 and 3 were also passed on similar grounds.

9. The learned counsel for the petitioners states that the above premise is also incorrect insofar as petitioner no.2 is concerned. He drew the attention of this Court to the consent order dated 29.04.2016 passed with respect to the restaurant run by petitioner no. 2. Admittedly, the consent order in relation to other petitioners have not been placed on record and it is doubtful that whether such orders exist.

10. This Court is not inclined, at this stage, to enter upon the controversy whether the show cause notice was issued or whether inspection was carried out. Since it is admitted that the petitioners had not been heard prior to passing the impugned order, this Court considers it apposite that petitioners be given an opportunity to be heard and respondent no.1 be directed to pass

an appropriate order after hearing the petitioner. It is so directed. The said order shall be passed within a period of four weeks from today. The petitioners may treat the impugned order as a show cause notice since the same indicates reasons why respondent no.1 has passed the closure orders.

11. In the event certain remedial measures are required to be taken by the petitioners, the same would be communicated by respondent no.1.

12. Since there is a serious allegation that petitioners have not taken the necessary measures for control of pollution and since it does *prima facie* appear that the petitioner no. 1 and 3 have been running their restaurants without the mandatory consent from respondent no 1; this Court does not consider it apposite to set aside the impugned order and the same shall continue to be operative till the final order is passed by respondent no.1 after hearing the petitioner. The final order passed by the respondent no.1 pursuant to the present order shall thereafter supersede the impugned order and other such orders passed in respect of the other petitioners.

13. The petition stands disposed of with the above directions.

14. Order *dasti*.

VIBHU BAKHRU, J

OCTOBER 10, 2017
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