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

+ W.P.(C) 9243/2017

AVINASH TAXI STAND

..... Petitioner

Through: Mr Jagat Rana, Mr Nirmal Goenka
and Mr Abhinav Dang, Advocates.

versus

COMMISSIONER OF POLICE, DELHI & ORS Respondents

Through: Mr Sanjay Dewan and Ms Palak
Rohmetra, Advocates for
Police/GNCTD).
Mr Arun Panwar, Advocate for
SDMC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **23.10.2017**

CM No.37770/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 9243/2017 & CM No.37769/2017

2. Issue notice. The learned counsel for respondents accepts notice. With the consent of counsel, the petition is taken up for final hearing.

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 31.07.2017 (hereafter 'the impugned order') passed by respondent no.1, whereby the taxi stand allotted at M-Block, Greater Kailash -I, New Delhi - the petitioner's taxi stand - has been de-notified/cancelled.

4. The learned counsel for the petitioner submits that the impugned order has been passed by the Deputy Commissioner of Police (respondent no. 1)

who is not authorized to pass such orders. He submitted that an order cancelling the taxi stand can only be passed by the District Magistrate. He relied upon the decision of this Court in ***Rajinder Singh v. Commissioner of Police: W.P.(C) 17216/2004 decided on 13.04.2012***, in support of the aforesaid contention. *Prima facie*, the contention advanced on behalf of the petitioner appears to be merited.

5. In ***Rajinder Singh v. Commissioner of Police*** (*supra*), this Court had held as under:-

“16. The first leg of the argument of the counsel for the petitioner is that as the aforesaid taxi stand had been notified by the District Magistrate, the order of de-notification could have been passed by the same authority, i.e., District Magistrate and not by the Deputy Commissioner of Police as done in the present case. The second leg of his argument is that till date, respondent No.3/DDA has not cancelled the tehbazari site allotted to the petitioner and that he has been regularly depositing a sum of `100/- with the DDA as tehbazari fee, which DDA has been duly accepting and therefore respondent No.1/Delhi Police could not displace him in the manner sought to be done.

17. Undoubtedly, the order dated 28.08.1975 notifying the taxi stand in question was issued by the District Magistrate. As per Rule 76(5) of the Delhi Motor Vehicle Rules, 1993 all orders of a District Magistrate sanctioning the establishment of a stand or revoking or modifying an order permitting the establishment of a stand, are appealable to the State Government, whose orders thereon shall be final. On 18.07.2003, the Divisional Commissioner, Govt. of NCT of Delhi had intimated the Principal Secretary, Transport as also the Joint Commissioner of Police (Traffic), that the Divisional Commissioner of Delhi is the District Magistrate for the Union Territory of Delhi and that the Deputy Commissioners in the nine districts had been conferred with

the powers of Additional District Magistrates (Territorial) and they could exercise all or any of the powers vested in the District Magistrate except those restricted only to the District Magistrate. A copy of the aforesaid letter dated 18.07.2003 is handed over by learned counsel for the petitioner and taken on record.”

6. Undisputedly, the aforesaid decision applies to the facts in the present case. Accordingly, the impugned order is set aside. However, it is clarified that this would not preclude the District Magistrate from considering a matter and passing an appropriate order in accordance with law. According to the respondent, the permission granted to the petitioner for operating a taxi stand has also expired by efflux of time. This issue is also left open.

7. The petition and pending application are disposed of.

VIBHU BAKHRU, J

OCTOBER 23, 2017
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