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

+ **W.P.(C) 10597/2017 and CM No. 43363/2017**

SHRI KESHAV KUMAR

..... Petitioner

Through: Mr M.K. Ramesh and Ms Archana
Ramesh, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms Shiva Lakshmi, CGSC with Mr
Sriram Krishna, Advocates for R-1 to
3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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29.11.2017

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“A. Issue a Writ, Order or direction in the form of a writ of Certiorari to quash and set aside the Termination of Contract vide Defence Services Officers Institute vide Letter dated 09 Oct 2017 placed as **Annexure P - 14** being violative of Article 19 on the very face of it being in excess to Reasonable restrictions to meet the ends of equity, justice and fairplay;

B. Issue a Writ, Order or direction in the form of a Writ of Mandamus by way of directions to the Respondents for continuity of service of the Petitioner as a Barber @ of Rs 2,000 per month as Licence Fee as was herein before till March 2017 as also immediate refund of excess Fees of Rs 36,000/- paid by the petitioner in excess to meet the ends of equity, justice and fair play.”

2. Essentially, the grievance of the petitioner is with respect to increase

in the license fee for the premises (Barber Shop) located at Defence Services Officers' Institute (hereafter 'DSOI'). The petitioner is a barber by trade and has been carrying on his trade from a Barber Shop located at DSOI. It is stated that the said shop was allotted to the petitioner's father Lt. Sh. Ghan Shyam and after his demise in 1994, was transferred in the name of the petitioner. It is stated that at the material time, the license fee was fixed at ₹400/- per month. The licence fee continued to be charged at this rate till the year 2000. Thereafter, the license fee was increased to ₹480/- , which continued from the year 2001 to 2004. Thereafter, the license fee was gradually raised to ₹2,000/- per month in the year 2012.

3. The said license fee for the Barber Shop has been raised from ₹2,000/- to ₹16,000/- in August 2017. The petitioner claims that such an increase is harsh and onerous. The petitioner also points out that the rates for services offered by him are fixed by DSOI and the petitioner can only charge ₹40/- for a haircut. In the circumstances, the petitioner's income is barely ₹20,000/- per month and it is not possible for him (or for anyone else) to afford the license fee of ₹16,000/-.

4. It is further stated that the license granted to the petitioner has been now terminated as he has failed to pay the license fee. The question as to what should be the license fee payable for the premises is clearly a question which courts would be reluctant to examine in proceedings under Article 226 of the Constitution of India. The question as to what licence fee must be charged is a matter to be considered by the management of DSOI and their decision in this regard must prevail. Therefore, this Court is not inclined to entertain this controversy.

5. However, given the facts in the present case, it does appear that the increase in the license fee is harsh and the petitioner may be right in stating that the same is not feasible given the rates that are fixed by the DSOI for his services.

6. In the circumstances, the present petition is disposed of by directing respondent no. 3 to consider the petitioner's representation and take an informed decision after examining the petitioner's turnover. The petitioner shall submit detailed accounts of the Barber Shop to respondent no.3 including the expenses incurred by the petitioner in carrying on his trade. If such representation with details is submitted to respondent no.3 within a period of one week from today, the same would be considered by respondent no.3 within a period of three weeks, thereafter.

7. The petition and the pending application are disposed of with the aforesaid observations.

VIBHU BAKHRU, J

NOVEMBER 29, 2017
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