

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L.) NO.962 OF 2018

Sai Sagar Fast Food & Anr.	...Petitioners
Versus	
Union Of India & Ors.	...Respondents

Mr.Gaurav Joshi, Senior Advocate, with Mr.Kazan Shroff, i/b. Ruturaj V. Bankar for Petitioners.
Mr.T.J. Pandian for Respondents.

**CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.**

DATE : 28th MARCH 2018

P.C.:

Heard finally by consent.

2. The petitioners challenge the communication dated 30th November 2017 whereby the respondents refused to renew a licence of catering stall at CSMT station. The application for renewal of licence made by the petitioners on 7th November 2017 was consequently rejected by the impugned communication dated 30th November 2017.

3. The learned Counsel appearing for the petitioners submits that the impugned communication is passed without adhering to the principles of natural justice. The petitioner No.2 was not heard. He has been

running the catering stall since 2010 under a licence (5 + 3). The learned Counsel has placed reliance on the order passed by the Apex Court wherein the petition was preferred by the Central Railway Caterers Association.

4. The learned Counsel for the respondents submits that in fact, the interim order passed by the Apex Court does not apply to the petitioners' case. The learned Counsel for the respondents, on instructions, now states that the petitioners will be heard on the application of renewal filed by the petitioners within a period of two weeks and after hearing the petitioners, appropriate order will be passed and communicated to the petitioners.

5. We refer to a judgment delivered by the Apex Court in case of **M/s.Raj Restaurant and Another Vs. Municipal Corporation of Delhi**¹ and more particularly paragraph 5 which reads thus:-

“5. Where, in order to carry on business a licence is required, obviously refusal to give licence or cancellation or revocation of licence would be visited with both civil and pecuniary consequences and as the business cannot be carried on without the licence it would also affect the livelihood of the person. In such a situation before either refusing to renew the licence or cancelling or revoking the same, the minimum principle of natural justice of notice and opportunity to represent one's case is a must. It is not disputed that no such opportunity was given before taking the decision not to renew the licence though it is admitted

1 (1982) 3 Supreme Court Cases 338

that for the reasons hereinbefore set out the licence was not renewed. Such a decision in violation of the minimum principle of natural justice would be void. Now, it is true that no specific order is made setting out the reasons for refusal to renew the licence. But the action taken of sealing the premises for carrying on the business without a licence clearly implies that there was refusal to renew the licence and the reasons are not disclosed. And the action disclosing the decision being in violation of the principle of natural justice, deserves to be quashed.”

6. On the statement made on behalf of railways, we direct that status-quo as on today in respect of the stall of the petitioners be maintained till the petitioners are heard and order on the application filed by the petitioners is communicated to the petitioners. In case the order is adverse to the petitioners, the same shall not be effected for two weeks.

7. In view of the above observations, the impugned order is set aside.

8. All issues of both the contesting parties are kept open.

9. Writ petition stands partly allowed. No costs.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]