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

+ **W.P.(C) 4621/2018**

K MAHENDRA SINGH & ANR Petitioners

Through: Mr. Kamal Gupta with
Ms. Umang Tripathi, Advs.

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Jasmeet Singh, CGSC for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **02.05.2018**

C.M. Appl. No.17839/2018(Exemption)

1. Allowed, subject to just exceptions.

W.P.(C) 4621/2018 & C.M. Appl. No.17838/2018

2. This is a writ petition which assails the communication dated 20.04.2018, issued by the Archaeological Survey of India (ASI), Government of India, as also an earlier communication dated 19.04.2018 as has been referred to in the communication dated 20.04.2018.

3. Counsel for the petitioners states that the communication dated 19.04.2018 was not served on the petitioners.

4. Be that as it may, the net effect of the communication dated 20.04.2018 is that the Memorandum of Understanding (MoU) executed by the petitioners with ASI for running a cafeteria at Purana Qila and Safdurjung Tomb is not extended.

5. It is not in dispute that the petitioners were given a license to

run a Cafeteria at Purana Qila and Safdurjung Tomb. The license given to the petitioner was for a period of one year with a clause for further extension upto two years, albeit, with the mutual consent of parties which includes ASI.

6. Mr. Jasmeet Singh, learned counsel who appears on advance notice on behalf of the respondents, states that a decision has been taken not to extend the MoU beyond one year as conservation work has to be carried out at the aforementioned monuments.

7. On the other hand, learned counsel for the petitioners states that the petitioners had a legitimate expectation that the MoU would be extended. In support of his submissions, learned counsel for the petitioners has taken me through Clause 9.02 and 9.04 of the National Policy for the Conservation of the Ancient Monuments, Archaeological Sites and Remains, 2014.

7.1 In addition thereto, the learned counsel has also relied upon the Request For Proposal dated 29.12.2016 ('RFP'). In sum, it is the submission of the learned counsel for the petitioners that a policy decision was taken that all ancient monuments should have around-the-clock facilities for convenience of visitors, which included kiosk/cafeteria. It is, thus, the submission of the petitioners that closure of the cafeteria will cause inconvenience to the public apart from the fact that it would economically impact the petitioners.

8. Having regard to the submissions of the counsel, according to me, since the petitioners are licensees they do not have any legal right to continue beyond the terms of the engagement incorporated in the license. Insofar as the submission advanced on behalf of the

petitioners with regard to the legitimate expectation is concerned, it would square off against ASI's stand, which is, that the site is required for carrying out the conservation.

9. To my mind, public interest, which requires conservation of ancient monuments, would trump the legitimate expectation of the petitioners in having the license continued beyond the period of one year. Needless to say, the respondents will provide necessary facilities to the visitors, if not at the subject site(s), then at a location which is proximate.

10. The writ petition along with all pending applications is, accordingly, dismissed.

RAJIV SHAKDHER, J

MAY 02, 2018/ak