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

+ **W.P.(C) 5269/2018**

M/S BULL DOGS (A UNIT OF S AND A HOSPITALITY)

..... Petitioner

Through Mr. Prashant Kumar and Mr. Soin
Khan, Advs.

versus

SUB DIVISIONAL MAGISTRARE (S.D.M) AND ANR.

..... Respondents

Through Mr. Anuj Aggarwal, ASC for
GNCTD with Ms. Doboshree
Mukherjee, Adv for R-1.
Mr. B. Mahapatra, Adv for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **16.05.2018**

C.M. Appl. No.20436/2018

1 Allowed, subject to just exceptions.

W.P.(C) 5269/2018 & C.M. Appl. No.20435/2018

2 With the consent of counsel for the parties, the writ petition is disposed of at this stage itself.

3 The petitioner seeks to challenge the order dated 23.09.2017 passed by respondent No. 1 i.e. SDM, Hauz Khas. By virtue of the impugned order dated 23.09.2017, the petitioner's eating house was sealed for violation of the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974. It is the submitted by the counsel for the petitioner that an application for issuance of consent to establish

has been preferred and that an undertaking has been given to furnish Environmental Compensation Security (ECS) in the sum of Rs.2 lacs. For this purpose, my attention has been drawn to the documents appended at pages 43, 59 & 62 of the paper book.

4 Counsel for respondent No. 2/DPCC says that he would have no objection to de-sealing being ordered subject to usual caveats that the petitioner will not run a restaurant or an eating house till all requisite permissions and approvals are obtained by him which would include issuance of CTE and a consent to operate.

5 Mr. Anuj Aggarwal, who, appears for respondent No. 1/SDM says that the said respondent is only an implementing agency and that sealing was carried out at the behest of respondent No. 2/DPCC.

6 In these circumstances, I am inclined to direct de-sealing of the subject unit with the following caveats:

- (i) That the petitioner will obtain a CTE, CTO and all other requisite permissions and approvals before resuming the activity of running an eating house
- (ii) The petitioner will also put in place the necessary fire safety measures and in this behalf, would approach the concerned statutory authorities for approval if it intends to operate a restaurant or eating house.
- (iii) The petitioner will file an undertaking in this behalf with this Court within two weeks of receipt of a copy of the order.

7 Respondent No. 1/SDM will act as per the directions of this Court after the undertaking, as indicated above, has been filed with this Court by the petitioner. A copy of the undertaking will be furnished to respondent No. 1/SDM as well as respondent

No. 2/DPCC.

8 Petition is disposed of in the aforesaid terms.

9 Pending application shall stand closed.

10 *Dasti* under the signatures of the Court Master.

RAJIV SHAKDHER, J

MAY 16, 2018

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