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

+ W.P.(C) 7685/2018

M/S DEHAL CATERERS & ANR Petitioners

Through: Mr Shyam Moorjani and Ms Richa Singh, Advocates.

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES

..... Respondent

Through: Mr V. S. R. Krishna and Mr V. Shashank Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.08.2018

1. The petitioners have filed the present petition, *inter alia*, impugning an eviction notice dated 21.07.2018 (hereafter 'the impugned notice') issued by the respondent – All India Institute of Medical Sciences (hereafter 'AIIMS') – directing the petitioners to vacate the premises provided to petitioner no.2 for operating a canteen at Cafe-V, Hostel No.5, Gents Hostel, AIIMS (hereafter 'the premises'). The petitioners were further called upon to handover vacant possession of the premises to the concerned hostel warden on 26.07.2018.

2. Admittedly, the term of the license granted to petitioner no.2 had expired on 30.06.2018. The present matter was taken up for hearing on 24.07.2018 and on the said date, it was contended on behalf of the petitioners that the time provided to the petitioners for vacating the premises

was very short. Mr Moorjani, the learned counsel appearing for the petitioners had further stated, on instructions, that the petitioners would vacate the premises positively on or before 31.08.2018. In view of the aforesaid undertaking, the present petition was entertained and an interim order was passed directing that no coercive steps would be taken against petitioner no.2 for evicting him from the premises in question.

3. Mr Moorjani, now states that the impugned notice directing the the petitioners to evict the premises is liable to be set aside, as it refers to the Minutes of the Meeting held on 10.07.2018 wherein the concerned Committee had decided not to give any further extension to petitioner no.2 on the basis of various complaints received against him. He submits that petitioner no.2 had no opportunity to respond to any of the complaints. Further, the Memorandum dated 04.05.2018 on the basis of which the aforesaid decision was taken was also not provided to the petitioners. He has also referred to the Memorandum dated 01.06.2018 and submitted that a decision has already been taken to direct petitioner no.2 to vacate the premises on or before 31.08.2018. The said Memorandum records that the petitioners had failed to reply to the Memorandum dated 04.05.2018. He states that since the Memorandum dated 04.05.2018 was not served on the petitioners, the petitioners had no occasion to respond to the same.

4. Mr Krishna, the learned counsel appearing for AIIMS disputes the above contentions.

5. Admittedly, the term of license granted to petitioner no.2 has expired. It is also evident that there have been several complaints that have been

made against petitioner no.2. In this view, AIIMS was well within its right to take a decision not to extend the term of the license granted to petitioner no.2.

6. The contention that the respondent had already pre-decided the issue on 01.06.2018 is also not merited, as the said letter clearly indicates that same is an internal note, whereby the recommendation to call upon petitioner no.2 to vacate the premises in question or before 30.06.2018 had been put up for the decision. Having stated above, there is merit in the petitioners' contention that since the impugned notice refers to several complaints, petitioner no.2 ought to have been given a chance to respond to them only to clear his name.

7. The learned counsel appearing for AIIMS states that several complaints have been received against petitioner no.2 and all except one had not been forwarded to the petitioners. He further states that the Memorandum dated 04.05.2018 was also provided to the petitioners. This Court is not inclined to entertain the said controversy in this petition. Since, it is an admitted position that the license granted to petitioner no.2 had been terminated, petitioner no.2 cannot insist on continuing to obtain the possession. The learned counsel appearing for AIIMS also states that the impugned notice passed by the respondent will not come in the way of petitioner no.2 participating in future tenders, which will be considered on its own merits.

8. In view of the aforesaid statement, it is clear that the petitioners are not prejudiced in any manner. However, it is also clarified that the decision

not to extend the term of license would not be considered as a termination of the licence with cause. In terms of the undertaking given by petitioner no.2, he is bound to vacate the premises on or before 31.08.2018.

9. In this view, no further orders are required to be passed in this petition. The same is disposed of.

VIBHU BAKHRU, J

AUGUST 30, 2018
MK