

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.16582 of 2017

and

W.M.P.Nos.17952 of 2017 and 1666 of 2018

Ellora Restaurant,
represented by Its Proprietor,
Sivanandham,
No.25, Wallers Road,
Chintadripet,
Chennai-600 002. Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

2.S.Yusuf Siddiq Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to calling for records and quashing the impugned order dated 20.06.2017 passed by the first respondent vide Rc.No.E3 (2)/163/17287/2017 rejecting the grant of Public Resort Licence to the petitioner namely Ellora Restaurant at No.25, Wallers Road, Chintadripet, Chennai-600 002 for the year 2017 and consequently direct the first respondent to grant such license to the petitioner for a period of one year from the date of issuing such license within time frame, so as to run the restaurant from 08.00 P.M to 12.00 p.m (midnight).

For Petitioner : Mr.K.Ravi Anantha Padmanaban

For R-1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

: Mr.R.Raghul
Advocate Commissioner

O R D E R

This writ petition has been filed challenging the impugned order passed by the first respondent dated 20.06.2017, rejecting the renewal of the license for the year 2017.

2.The petitioner is running a Public Resort at Chintadripet with a name and style of Ellora Restaurant. This restaurant is running from the year 1993 and the petitioner is conducting cultural festivals in the said premises. The petitioner applied for renewal of license and the same was rejected by the first respondent mainly on the ground that no CCTV cameras have been installed in the property belonging to the petitioner and that no sufficient parking place has been allotted to the customers to park their cars and two wheelers.

3.The learned counsel for the petitioner would submit that apart from parking space available in the property, the petitioner has also taken on lease a vacant property nearby in order to accommodate the vehicles by way of valet parking. The learned counsel for the petitioner would further submit that the CCTV cameras have been installed by the petitioner. Therefore, the learned counsel for the petitioner would submit that the first respondent should be directed to renew the license in view of the subsequent development that has taken place.

4.The learned Additional Public Prosecutor on instructions, would submit that it is true that the petitioner has installed the CCTV cameras, however, there is no sufficient space for parking the four wheelers and two wheelers and Chintadripet as it is a very crowded place with only a very limited space available for parking. Therefore, the learned Additional Public Prosecutor would submit that in view of the non availability of sufficient parking space, the first respondent is not in a position to renew the license granted to the petitioner.

5.When this writ petition came for hearing on earlier occasion, this Court thought it to fit to appoint an Advocate Commissioner in order to assess the real ground situation and appointed Mr.R.Raghul, Advocate to inspect the property and file a report with regard to the following queries;-

"a) Whether there is a parking space in-front of the restaurant and it so how many vehicles can be parked there?

b) Whether the parking space claimed by the petitioner actually belongs to the petitioner or it forms part of the public road?

c) How many four wheelers and two wheelers can be parked at the vacant parking place at No.33, Singuvar Agragaram street, Chintadripet?"

6.The learned Advocate Commissioner undertook the inspection both in the premises as well as the vacant space identified by the petitioner for valet parking, on 21.12.2018. The learned Advocate Commissioner has conducted a detailed survey and has filed a report before this Court. From the report, it is clear that the available parking space in front of the restaurant is only 10.10 feet in length and 22.8 ½ in breadth, which can only accommodate six two wheelers. Insofar as the valet parking space is concerned, the learned Advocate Commissioner has identified the extent available as 82.9 feet length and 35.5 feet breadth, which can accommodate 8 to 10 cars and 6 to 8 two wheelers. The learned Advocate Commissioner has also filed two separate sketch along with photographs in order to show the available space both in the property as well as the valet parking space.

7.This Court is able to see that the learned Advocate Commissioner has done a very thorough job and has perfectly identified the space available and also the number of vehicles that can be parked in the available space. The report filed by the Advocate Commissioner is not seriously disputed.

8.The learned counsel for the petitioner would submit that the petitioner is running the restaurant from the year 1993 onwards and the license will have to be renewed in order to enable the petitioner to continue with the business.

9.It has already been observed by this Court that the petitioner has already installed the CCTV cameras in the property. Therefore, the only other reason stated by the first respondent in the impugned order is with regard to the available parking space to park the four wheeler and two wheeler. The learned Advocate Commissioner has inspected the property and has filed a detailed report along with the sketch and the photographs. This report has to be now taken into consideration for the purpose of deciding the renewal of license by the first respondent.

10. In view of the above, the impugned order dated 20.06.2017, passed by the first respondent is hereby quashed. The matter is remitted back to the first respondent with a direction to the first respondent to consider the renewal of the license to the petitioner from 2019 onwards, based on the report of the Advocate Commissioner along with rough sketch and photographs submitted by the Advocate Commissioner and also after making a spot inspection in this regard. The first respondent shall also afford an opportunity to the petitioner to put forth their views before passing the order regarding the renewal of license to the petitioner. The first respondent shall complete the process within a period of four weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs. Consequently, the connected W.M.P.Nos.17952 of 2017 and 1666 of 2018 are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Ravi Anantha Padmanabhan, Advocate sr.1869
+1cc to Mr.R.Raghul, Advocate Sr.2106

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