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

+ W.P.(C) 1279/2019

DALIP KUMAR

..... Petitioner

Through: Mr Parvinder Chauhan, Advocate.

versus

DELHI POLLUTION CONTROL
COMMITTEE

..... Respondent

Through: Mr Sanjeev Ralli and Mr Balaji
Anusha, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.02.2019

CM No.5792/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 1279/2019 & CM No.5791/2019

2. The petitioner has filed the present petition, *inter alia*, impugning orders dated 24.01.2019 issued by the respondent under Section 31(A) of the Air (Prevention & Control of Pollution) Act, 1981 and under Section 33(A) of the Water (Prevention & Control of Pollution) Act, 1974, directing the petitioner to close his units.

3. The petitioner states that he has been operating the said units – a lodging house with pantry under the name of ‘Vaishnaw Hotel’ located at the property bearing No. 23-640, Fatehpuri, Delhi-110006 and a lodging house under the name of ‘New Vaishnaw Hotel’ located at property bearing No. 25 , Gandhi Gali, Fatehpuri, Delhi-110006 – since 1942. He

submits that the 'Vaishnaw Hotel' consists of 35 rooms and 'New Vaishnaw Hotel' consists of 20 rooms, which have been operational for several decades. It is claimed that the first license was issued to the petitioner under 'The Sarais Act, 1867'.

4. Mr Chauhan, learned counsel appearing for the petitioner states that notwithstanding the petitioner's challenge to the impugned order, the petitioner has also complied with the Office Order dated 04.12.2018 and has submitted an undertaking alongwith the Environmental Compensation Security (ECS) as required. He submits that in terms of the Office Order dated 04.12.2018, the impugned order is required to be kept in abeyance in view of the petitioner complying with the said office order.

5. Mr Ralli, learned counsel appearing for the respondents states that the petitioner has an equally efficacious remedy of filing an appeal before the Appellate Authority under the respective enactments. He further submits that the petitioner may not be entitled to the benefit of the Office Order dated 04.12.2018.

6. Insofar as the petitioner's challenge to the impugned order is concerned, clearly, the petitioner has an equally efficacious remedy of an appeal and, therefore, this Court does not consider it apposite to entertain the present petition, leaving it open for the petitioner to avail the alternative remedies.

7. In view of the petitioner's contention that he has complied with the office order dated 04.12.2018 and the impugned order is required to be kept in abeyance for a period of 60 days, this Court considers it apposite to direct the respondent to consider the petitioner's application under the

Office Order dated 04.12.2018 and, if the respondent is of the view that the said Office Order is not applicable or that the petitioner has failed to comply with the same, they shall communicate the same to the petitioner within a period of ten days days from today. It is so directed.

8. Mr Chauhan also states that the petitioner has applied for CTE. If this is so, the petitioner's application for the same shall be considered within a period of three weeks from today.

9. The petition is disposed of in the aforesaid terms.

10. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

FEBRUARY 06, 2019

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