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

+ W.P.(C) 7845/2019 and CM APPL. 32622-32623/2019

M/S MANAKTALA FARMS Petitioner
Through: Mr Gagan Gandhi, Advocate.

versus

STATE (GOVERNMENT OF NCT OF DELHI)
AND ORS.

..... Respondents

Through: Mr Naushad Ahmed Khan, ASC
(Civil), GNCTD with Mr Zahid
Hanief and Ms Manika Chauhan,
Advocates for R-1 & 5.
Mr Biraja Mahapatra and Mr sumit
Mishra, Advocates for R-2.
Mr Sunil Fernandes, Standing
Counsel for BSES-RPL with Ms Anju
Thomas, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **22.07.2019**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 01.07.2019 passed by Delhi Pollution Control Committee (hereafter 'DPCC') under Section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981 and Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974.

2. By the impugned order, the petitioner has been directed to close the business unit operated by the petitioner from a farmhouse. The impugned directions have been passed on the basis of an inspection conducted by

DPCC, wherein it was found that the petitioner was using the farmhouse for operating a banquet hall and holding social functions. The inspecting team had also observed dry-sludge at the premises and the Sewage Treatment Plant (STP) was found to be in non-operational condition.

3. The petitioner states that he had applied for Consent to Operate on 02.07.2018 and since the petitioner had not received any response, the same was to be treated as deemed consent under Section 25(7) of the Water (Prevention and Control of Pollution) Act, 1974. The allegation that the STP was found in a non-operational condition is also objected to by the petitioner. He has drawn the attention of this Court to the show cause notice issued by DPCC, whereas DPCC has expressly recorded that the STP was in operating condition but not in use. He submits that the said STP is used as and when the occasion arises, that is, as and when the banquets/functions are held at the premises in question. The petitioner also states that there is no illegality in running a banquet hall since the petitioner has obtained the necessary permissions from South Delhi Municipal Corporation. The petitioner also contests the allegation that using a farmhouse for the commercial purpose of running a banquet hall is contrary to the provisions of MPD-2021.

4. The learned counsel appearing for DPCC points out that the fact that sludge was found on the premises indicates that the petitioner's unit is a polluting unit. He states that after the inspection was conducted, the petitioner had applied on 19.06.2019 for a Consent to Operate under the relevant provisions of the enactments and the same would be processed within the stipulated time.

5. *Prima facie*, the allegation that using a farmhouse as a banquet hall is not permitted under MPD-2021, is merited. The learned counsel appearing for the petitioner has not been able to point out any provision in MPD-2021 which permits farmhouses to be used for commercial purposes. On the contrary, the (Permission of Banquet Hall) Regulations, 2010 indicate that a banquet hall is permissible in industrial and commercial areas, including modified commercial streets under mixed use Regulations. It does not appear from the said Regulations that a banquet hall is permitted to be operated from a farmhouse.

6. The contention that the petitioner has a right to continue operating on the basis of a deemed consent to operate because DPCC had not responded to the petitioner's earlier application, is also unmerited. DPCC had conducted an inspection and, thereafter, found certain deficiencies. The question of any deemed consent subsisting thereafter does not arise. The petitioner also proceeded on the basis that a consent to operate is necessary and, therefore, has applied for fresh Consent to Operate.

7. It is not disputed that the said application was made only on 19.06.2019. In this view, this Court is not persuaded to accept that the petitioner ought to be permitted to run the banquet hall, prior to securing such Consent.

8. In view of the above, this Court finds no reason to interfere with the impugned order. It is however directed that the petitioner's application for Consent to Operate shall be processed in accordance with law and if the petitioner is granted such consent, the impugned order would stand vacated.

9. The petition is, accordingly, dismissed. The applications are also disposed of.

10. Order *dasti* under signature of Court Master.

VIBHU BAKHRU, J

JULY 22, 2019

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