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

+ W.P.(C) 10286/2017 & CM No. 41938/2017

M/S DREAM UNLEADHED MART (P) LTD. Petitioner

Through: Mr Rajeev Chhetri, Mr Vikrant Yadav, Ms Meenakshi Rawat, Mr Rajesh Chhetri and Mr Raiparna Bhattacharya, Advocates.

versus

NCT OF DELHI AND ORS. Respondents

Through: Mr Santosh Kumar Tripathi, ASC, GNCTD with Mr Rishabh Ostwal, Mr Shashank Tiwari, Mr Arpit Bisht and Ms Shivangi Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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19.07.2019

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 10.11.2017 passed by respondent no.2 (hereafter the SDM) directing the Excise Department to shift the petitioner's liquor vend to another suitable location.
2. The petitioner operates a retail departmental store from Shop no.30 & 31, CSC, DDA Market, Sector-17, Rohini, New Delhi-110089. It operates a liquor vend under L-12 licence, which is limited to sale of alcohol below 8% v/v and wine below 14% v/v.
3. On the basis of the aforementioned impugned order dated 10.11.2017, the Excise Department had also passed an order on 14.11.2017 directing the

petitioner to shift the liquor vend to another location. It is the petitioner's case that the said orders are without application of mind, as the concerned authorities had not taken into account that the liquor vend was a part of the departmental store which sold other products as well. It is the petitioner's case that the said store could not be equated to a full-fledged liquor vend. Further, the said shop was located in a local shopping complex and there was no complaint of any law and order problem in respect of the said outlet.

4. The petitioner had also filed a separate appeal against the order dated 14.11.2017 passed by the Deputy Commissioner (Excise). Pursuant to the directions of this Court, the said appeal was heard and decided. The petitioner has succeeded in the said appeal, which was allowed by an order dated 26.06.2019.

5. A perusal of the order dated 26.06.2019 indicates that the Licencing Authority (Deputy Commissioner, Excise) had constituted a committee of officers to examine the functioning of the shop in question and to ascertain whether the same had adversely affected public interest in any manner. The committee had visited the petitioner's departmental store on three separate occasions and had found that there was no public nuisance or open drinking.

6. The SHO, PS Rohini had also conducted an inquiry and had reported that neither the shopkeepers in the market, nor the residents had any problem or any objection from running of the liquor vend from the departmental store. He also reported that no complaints had been received at the police station as well.

7. A plain reading of the impugned order dated 10.11.2017 also indicates that the SDM was fully aware that no law and order problem was reported. Nonetheless, the SDM was of the view that it was not wise to await

occurrence of any incident before taking any action. It is seen from the impugned order that although certain complaints were made, there was no substantiated incident which would warrant passing of the impugned order. It also appears that the SDM had not examined the nature of the liquor vend. He had not considered that the licence was restricted only to alcohol below 8% v/v and wine below 14% v/v. It also does not appear that he had conducted any fact-finding inquiry to ascertain the veracity of the complaints made. Clearly, such an order, which is based on surmises and unsubstantiated complaints, cannot be sustained.

8. In view of the above, the impugned order dated 10.11.2017 is set aside.

9. The petition is allowed in the aforesaid terms. The pending application is disposed of.

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

VIBHU BAKHRU, J

JULY 19, 2019
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