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

+ W.P.(C) 3208/2020

SHAIENDRA BHATNAGAR Petitioner
Through: Petitioner-in-person.

versus

THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI FINANCE DEPARTMENT Respondent
Through: Mr. Ramesh Singh, Standing Counsel,
Mr. Dhananjaya Mishra, ASC,
Mr. Gautam Narayan, ASC and
Ms. Bhawna Kataria, Adv. for
GNCTD.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
19.06.2020

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1. Proceedings of the matter have been conducted through video conferencing.
2. This Public Interest Litigation has been preferred with the following prayers:-

“• Pass a writ of mandamus or any other appropriate writ or direction and pass any other further order(s) or notification which this Hon’ble Court deem fit and appropriate in the facts of the case and in the interest of justice and public interest.

• Grant stay on the fee imposed on liquor by the Government of National Capital Territory of Delhi. Quash the notification.

- *Direct the concerned departments with appropriate notification to resolve the aforesaid issues.*
- *Pass any other relief, which this Hon'ble Court deems fit in the peculiar facts and circumstances of the case."*

3. Before the petitioner who appears in person starts his argument, it is fairly submitted by the learned Standing Counsel appearing for the respondent – Government of NCT of Delhi that vide fresh notification dated 09.06.2020 the earlier notification dated 04.05.2020 which is under challenge in this writ petition has been withdrawn and therefore nothing survive in this petition for adjudication.

4. However, petitioner appearing in person submitted that this writ petition still survives for the academic purpose so far as to question, whether the respondent had power, jurisdiction and authority to impose and levy Special Corona Fee on the MRP of liquor. Therefore, it submitted by the petitioner that this aspect of the matter may be decided by this Court.

5. Keeping in view that the impugned notification dated 04.05.2020 has already been withdrawn by the Government of NCT of Delhi vide fresh notification dated 09.06.2020, we are not at all inclined to entertain this writ petition only for the academic purpose. The Hon'ble Supreme Court in **Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi**; 1987 (Supp) SCC 93 observed as under:-

"4. Court should not undertake to decide an issue unless it is a living issue between the parties. If an issue is purely academic in that its decision one way or the other would have no impact on the position of the parties, it would be waste

of public time to engage itself in deciding it. Lord Viscount Simon in his speech in the House of Lords in Sun Life Assurance Co. of Canada v. Jervis, 1944 AC 111 observed:

I do not think that it would be a proper exercise of the authority which this House possesses to hear appeals if it occupies time in this case in deciding an academic question, the answer to which cannot affect the respondent in any way. It is an essential quality of an appeal fit to be disposed of by his House that there should exist between the parties to a matter in actual controversy which the House undertakes to decide as a living issue.

These observations are relevant in exercising the appellate jurisdiction of this Court.”

(emphasis supplied)

6. Question of law as raised in this petition shall be dealt with by this court in appropriate proceedings. However, if the petitioner is interested in recovery of the excess amount paid consequent to the notification dated 04.05.2020, he is at liberty to file a Civil Suit for recovery of the amount in accordance with law before the appropriate forum/court.
7. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

JUNE 19, 2020
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