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

+ W.P.(C) 5342/2020 & CM APPL. 19276/2020

M/S SAMBHAV FRUITS

..... Petitioner

Through: Mr.Sanjay Dewan & Ms.Nishima
Arora, Advs.

versus

AGRICULTURE PRODUCE MARKETING COMMITTEE

..... Respondent

Through: Ms.Avnish Ahlawat, Standing
Counsel for GNCTD.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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20.08.2020

1. This petition has been heard through video conferencing.
2. This petition has been filed challenging the Show Cause Notice dated 06.08.2020 and the consequent order dated 10.08.2020 passed by the respondent, suspending the license of the petitioner with immediate effect and banning the entry of the goods of the petitioner into the market yard APMC, Azadpur.
3. The Show Cause Notice itself is rather cryptic and is reproduced hereinunder:-

“Whereas, M/s Jai Bhole (Lic.No.B-4869 & A-4464) Shop Address D-1253, NSM, Azadpur, Delhi is a licensee under the provisions of Section 80 of DAPM (R) Act, 1998 read with Rule-15 of DAPM (R)(C) Rules, 2000 and are required to submit returns as prescribed under rule 39 of the said Rules.

And, whereas M/s Jai Bhole (Lic.No.B-4869 & A-4464) was found to be hiding their actual arrival through unscrupulous and unfair means to evade market fee in contravention of Section 81 of DAPM(R) Act, 1998 read with Rule-16 of DAPM (R)(C) Rules, 2000.

And, whereas an enquiry in the above-said matter has been initiated by Vice Chairman, Delhi Agricultural Marketing Board.

And, whereas the Marketing Committee, APMC Azadpur, has decided to suspend the licence of M/s Jai Bhole (Lic.No.B-4869 & A-4464) Shop Address D-1253, NSM, Azadpur and ban the entry of goods in the market yard APMC, Azadpur with immediate effect.

Now, you are hereby directed to show cause why not your license be suspended and entry of your commodities be banned. You are directed to submit your reply within three days of issue of this notice.

This issues with the prior approval of the Competent Authority.”

4. The Show Cause notice does not disclose the reasons/allegations on the basis of which the petitioner is alleged to have been found to be hiding it's “actual arrival through unscrupulous and unfair means to evade market fee in contravention of Section 81 of DAPM(R) Act, 1998 read with Rule-16 of DAPM (R)(C) Rules, 2000”. It suffers from vagueness.
5. In absence of even bare semblance of allegation which the petitioner needs to answer, the Show Cause notice itself is liable to be quashed.
6. Even otherwise, it is the case of the petitioner that the petitioner received the Show Cause Notice on 07.08.2020 and replied to the same on 10.08.2020. Without considering the reply, the Impugned Order dated 10.08.2020 was passed, recording therein that no reply has been received.
7. Section 81 of the Delhi Agricultural Produce Marketing (Regulation)

Act, 1998 (hereinafter referred to as “Act”) reads as under:-

“Section 81- Power to cancel or suspend licence

(1) Subject to the provisions of sub-section (3), a Marketing Committee may, for reasons to be recorded in writing, suspend or cancel a licence granted or renewal under this Chapter,-

(a) if the licence had been obtained through willful misrepresentation or fraud;

(b) if the holder of the licence or any servant or any acting on his behalf with his express or implied permission commits a breach of any of the terms or conditions of the licence and/or holder of licence makes violation of the provisions of the Act, Rules and Bye-laws made thereunder;

(c) if the holder of the licence in combination with other holders of licence commits any act or refrains from carrying out his normal business in the market with the intention of willfully obstructing, suspending or stopping the marketing of agricultural produce in the market yard and/or area;

(d) if the holder of the licence has been adjudged an insolvent, and has not obtained his discharge; or

(e) if the holder of the licence is convicted his discharge.

(2) Notwithstanding anything contained in sub-section (1) but subject to the provisions of sub-section(3), the Director may, for reason to be recorded in writing, by order, suspend or cancel any licence granted or renewed under this Chapter.

(3) No licence shall be suspended or cancelled under this Section, unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.”

8. Sub-Section 3 of Section 81 of the Act mandates that no license shall

be suspended, unless the holder thereof has been given reasonable opportunity of showing cause against the proposed action. In absence of a proper Show Cause Notice and a reasonable opportunity of hearing granted to the petitioner, the Impugned Action of the respondent cannot be sustained and is accordingly set aside.

9. At this stage, the learned counsel for the respondent submits that the respondent shall supply the petitioner with the allegations on which the Impugned Action was based and grant an opportunity of showing cause to the petitioner.

10. As this order has been passed on the limited ground of improper Show Cause Notice and failure of the respondent to grant an opportunity of hearing to the petitioner, this order shall not bar the respondent from initiating action against the petitioner under Section 81 of the Act in accordance with law nor influence any such decision.

11. The petition is allowed in the above terms.

NAVIN CHAWLA, J

AUGUST 20, 2020/rv