

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision : 23.4.2021

212 LPA-401-2021 (O&M)

Vinod Kumar Sharma Appellant

Versus

Union Territory Chandigarh and others Respondents

118 LPA-405-2021 (O&M)

Deputy Commissioner Chandigarh and others Appellants

Versus

Jagtar Singh and others Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present : Mr. Pankaj Jain, Sr. Standing Counsel with
Mr. Ajay Jagga, Advocate
Additional Standing Counsel for the appellants
in **LPA-405-2021**
for respondent No. 1 to 3 in **LPA-401-2021**.

Mr. Akshay Kumar Goel, Advocate
for the appellant in **LPA-401-2021**.

Mr. Shekhar Verma, Advocate
for respondent No.4 in LPA-401-2021.

Mr. Rajiv Vij, Advocate
for respondents No. 5 and 6 in **LPA-401-2021**.

Mr. APS Mann, Advocate
for respondents No. 8 to 15 in **LPA-401-2021**.

None for respondent No. 7.

AJAY TEWARI, J. (Oral)

1. Notice of motion in **LPA-405-2021**.
2. On advance notice, Mr. APS Mann, Advocate has entered appearance and accepts notice on behalf of respondents No. 1 to 8, Mr. Shekhar Verma, Advocate accepts notice on behalf of respondent No.9, Mr. Rajiv Vij, Advocate accepts notice on behalf of respondent Nos. 10 and 11, Mr. A.K.Goel, Advocate accepts notice on behalf of respondent No.13.
3. Vide this common order we shall dispose of above said two appeals as common questions of law and facts are involved therein. For the sake of convenience, facts are being taken from LPA-401-2021.
4. This appeal has been filed against the order of the learned Single Judge dated 25.3.2021 passed in CWP-21879-2020 whereby it was directed as follows :-

“In the meanwhile, after 31st of March 2021, there will not be opening/operation of any liquor vend till the next date of hearing in the area in question i.e. village Maloya, UT Chandigarh.
5. The appeal has emerged from a writ petition filed by the private respondents No. 8 to 15 wherein they had protested against the location of the liquor vend which had been auctioned for the year 2020-2021 to respondent No.7.
6. The main ground raised in the petition was that the existing vend was very close to the houses of those respondents and thus the residents of village Maloya were opposing the opening of vend and consequently, it was prayed as follows :-

- i. To call for records of the case.*
- ii To issue an appropriate writ directing Respondents 1 to 3 to Cancel or Withdraw the L-2/L-14A licence of Respondent No.7 A-5 Distilleries and Bottlers Pvt. Ltd and stop the operations of its Liquor Vend, Tavern and Godown in village Maloya, Chandigarh OR in the alternative, issue a writ directing Respondents No. 1 to 3 to direct respondent No.7 shift its Liquor Vend located at Plot No. 622, Near Bus Stand, Tavern and Godown in village Maloya, Chandigarh from its present location to an alternative site in the village, distant from the residential and community areas of the village.*
- iii To direct Respondents 1 to 3 to suspend the L-2/L-14A license of Respondent No.7 M/s A-5 Distilleries and Bottles Pvt. Ltd.. and stop the operations of its liquor vend, tavern and godown in village Maloya, Chandigarh, during the pendency of this petition.*
- iv. To exempt the petitioners from producing the L-2/L-14A license of Respondent No.7, as it is not readily available.*
- v. To issue any other writ, order or direction that this Hon'ble Court may deem fit in the facts and circumstances of the case.*
- vi To dispense with the service of advance notices to the Respondents.*
- vii To exempt the filing of certified copies of Annexures P-1 to P-19.*

7. It is not disputed that during the pendency of the petition, the currency of that license came to an end and thereafter the appellant became the successful bidder for the vend in village Maloya. The precise grievance of the appellant is that the license in favour of respondent No.7 has come to an end and thus in fact, the writ petition has become

infructuous, more so because no challenge was laid to the excise policy. It has been further stated that there are ample safeguards in the excise policy regarding location of the vend with strict parameters as to how much minimum distance is to be maintained from educational institutions etc. and further it has been clarified that vend can only be in a commercial area. It is further averred that the appellant has to deposit a sum of Rs. 5 crores as licence fee and he has already lost 23 days of business. On the other hand, learned counsel for respondents No. 8 to 15 has urged that in the body of the petition reference has been made to the directive principles and the issue whether any vend which could be allowed to be opened in village Maloya would come within the ambit of the last prayer. Learned counsel has further argued that this appeal would not be maintainable because the appellant could well have moved an application under Sub-clause (3) of Article 226 of the Constitution of India for vacation of stay.

8. Replying to this, learned counsel for the appellant has countered that village Maloya is no longer a village and this is a mis-description because the entire area has been included in the municipality limits of Chandigarh and therefore, the petitioners cannot lay challenge to a future licence without even challenging the excise policy.

9. In our considered opinion, the arguments of the learned counsel for the appellant/s carry more weight. The prayer clause of the writ petition (reproduced above) clearly reveal that the objection was only to the vend which was run by the respondent No.7 and no challenge was laid to the Excise Policy. Now that the license in favour of the

respondent No.7 has come to an end, there is no justification for the interim order.

10. Consequently, both the appeals are allowed in the above terms.

11. Since the main cases have been decided, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

23.4.2021
anuradha

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No