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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9367/2022, CM APPL. 28082/2022 (stay), CM APPL. 28341/2024 (on b/o petitioner seeking dir. to de-seal the stall)

GAURAV BEHL

..... Petitioner

Through: Mr. Jayant Tripathi, Adv. along with
Mr. Dinesh Dahiya and Mrs.
Nayantara Roy, Advs. (through VC)

versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: Mr. Ashim Shridhar, Adv for NDMC.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

28.05.2024

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1. The present petition has been filed by the petitioner seeking that the sealing order dated 21.10.2021 whereby the respondent has sealed Stall Nos.84 and 85, Municipal Market, Connaught Circus, New Delhi, be set aside.
2. Admittedly, the impugned sealing action was taken on account of non-payment of arrears of license fee. It transpires that during the pendency of the present petition, the licensees of the stalls in question have paid the outstanding arrears of the license fee. Accordingly, it is sought that the stalls in question be de-sealed.
3. Learned counsel for the respondent draws attention to the applicable policy for “sealing and de-sealing” of premises. The said policy, as set out in a Circular dated 16.08.2016, provides as under :-

“11. Sealing and de-sealing of premises:

- (i) *In case of violations of terms and conditions of the licence, the premises may be sealed by the NDMC officials with the prior approval of Director Estate or officers senior to*



Director Estate in hierarchy.

- (ii) During the period when the premises remains sealed, the licensee has to pay charges equal to damages on Cancellation as mentioned in para 9 above. During the de-sealing period, the licensee has to pay licence fee, as applicable from time to time.*
- (iii) On a request from the licensee, the premises, which has been sealed due to major violations, may be de-sealed for a period of one month for rectifying violations with the approval of Secretary, NDMC. In case, more than one-month de-sealing permission is required for rectifying violations, the same shall be done with the approval of Chairperson, NDMC. However, in any case, such de-sealing permission cannot be given for a period more than 3 months in a stretch.*
- (iv) After rectifications of all violations and payment of all dues/arrears/fees etc. to the NDMC, the licensee may apply for de-sealing the shop. The Estate Department, within a period of 30 days, submit the request of the licensee with the Department's recommendation, including a site inspection report, to the Chairperson, NDMC for a decision in the matter. In case, no decision on such de-sealing application is taken and uploaded on the NDMC's website within a period of 30 days of receipt of such application in the NDMC, then in such case, such application for de-sealing of such premises will be deemed approved. In case of such deemed approval, Head of the Department will be held responsible for such delay or any eventuality arising out of such deemed approval. The licensee be allowed for normal activity of business as per the terms of the licence agreement."*

4. On the basis of the above, it is submitted that upon a fresh application for de-sealing being made by the petitioner, a suitable decision shall be taken within the timeline indicated in the aforesaid policy. Attention is also drawn to the fact that in case no decision on the de-sealing application is taken and



uploaded on the NDMC's website within 30 days of the receipt of the said application, then the application for the de-sealing of the premises shall be deemed to be automatically approved.

5. In view of the aforesaid, learned counsel for the petitioner submits that the requisite application for de-sealing of the stalls in question shall be submitted within a period one week from today.

6. The necessary formalities for de-sealing of the stalls in question shall thereafter be completed in terms of the aforesaid policy.

7. It is made clear that the issue of levy of penalty, if any, in respect of the stalls in questions shall not come in the way of de-sealing, however, the respondent shall be at liberty to issue a fresh notice in this regard which shall be adjudicated in due course after affording an opportunity of hearing to the concerned licensee.

8. In case there is any other impediment in de-sealing of the stalls in question, the respondent shall afford an opportunity of hearing to the petitioner and give an opportunity to the petitioner to cure any objection in this regard.

9. The present petition, along with pending application/s, is disposed of in the above terms.

MAY 28, 2024/r

SACHIN DATTA, J