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

+ W.P.(C) 12155/2022 & CM APPL. 36324/2022

BURGER KING(A UNIT OF RESTAURANT BRANDS ASIA LTD)(CONNAUGHT PLACE)Petitioner

Through: Mr. M.A. Niyazi, Ms. Anamika Ghai Niyazi, Ms. Kirti Bhardwaj and Ms. Nehmat Sethi, Advocates.

versus

NEW DELHI MUNICIPAL CORPORATION
AND ANR

.....Respondents

Through: Ms. Kanika Agnihotri, SC with Ms. Sabana Khatun and Mr. Sachin Sharma, Advocates for NDMC.
Mr. Achal Gupta, Advocate for R-2.
Insp. Vijay Kaushik, Licensing Unit, Delhi Police.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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18.10.2024

1. The present writ petition, under Article 226 of the Constitution, is directed against a Show Cause Notice dated 27.07.2022 by which the respondent-New Delhi Municipal Council ["NDMC"], directed the petitioner to explain why the health license given by it to the petitioner, should not be cancelled on account of use of the mezzanine floor of the petitioner's restaurant for seating, rather than the ground floor alone.
2. Despite several opportunities, the respondent has not brought its counter affidavit on record. It may be noted that the last opportunity of two weeks was granted for filing of the counter affidavit on 02.02.2024.
3. During the pendency of the writ petition, the petitioner has been



protected by an interim order dated 22.08.2022, to the effect that no precipitate action would be taken against the petitioner with respect to the impugned Show Cause Notice. This order has subsisted for more than two years.

4. As the writ petition is directed against a Show Cause Notice, I am of the view that it would be appropriate to direct the respondent to take a final decision while continuing with the protection already granted to the petitioner.

5. The petition is, therefore, disposed of with the following directions:

A. The present writ petition will be treated as a reply to the Show Cause Notice.

B. The respondent is directed to grant a personal hearing to the petitioner on 05.11.2024 at 11:30 A.M. before the Deputy Director (Health Licensing), who had issued the Show Cause Notice. The petitioner may also furnish any additional documents if required at the said hearing.

C. The final order will be passed thereafter in accordance with law, and will be communicated to the petitioner, additionally, through learned counsel on record in this petition.

D. The interim protection granted to the petitioner will continue for a period of 3 weeks after the final order is passed, in order to enable the petitioner to take its legal remedies, if it so wishes.

PRATEEK JALAN, J

OCTOBER 18, 2024/MR/