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

+ **W.P.(C) 11396/2019 & CM APPL. 46903/2019**

MOHD. RAFEEQ

.....Petitioner

Through: Mr. Anup Kr. Das, Mr. Nairit Bansal,
Advocates

versus

GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Ajay Kr. Bhatnagar, Advocate for
R-2 and 3

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

21.08.2024

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1. The present writ petition is filed under Articles 14, 21 and 226 of the Constitution for issuance of direction to quash the impugned resolution no.34/2000 dated 24.05.2000 issued by the respondent no.2 whereby the statutory licenses of various categories were granted as per the section 80 of the Delhi Agricultural Produce Marketing (Regulation) Act, (DAPM Act) 1998 and Rule 15 of the Delhi Agricultural Produce Marketing (Regulation) General Rules, 2000.

2. The counsel for the petitioner stated that the petitioner was carrying on the business of fruit and vegetables in Shahdara Subzi Mandi, Delhi from early 1980 onwards as a commission agent and he applied for license of 'B' category after submitting the necessary documents and completion of the formalities.



3. The respondent no.3 neither refused nor issued any license to the petitioner and the petitioner was also not informed about the grant of new license. The respondent no.2 issued a resolution no.34/2000 dated 24.05.2000, whereby it was resolved that no fresh license shall be granted by the Market Committee from 24.05.2000 where new markets were being developed for shifting of the existing market to the new location. Subsequently, the respondent no.2 diluted the affect of the resolution no.34/2000 dated 24.05.2000 and passed a resolution no.27 dated 28.01.2004 by which the fresh licenses were issued to the many applicants. The petitioner also sent a representation to the respondent no.3 for issuance of license which was declined by the respondent no.3 vide letter dated 29.04.2011 on the ground that there was a ban on the grant of a fresh license. It was further mentioned that as and when fresh license were granted, the petitioner may raise his demand for the same.

4. The petitioner also submitted an appeal to the respondent no.2 to impugn the order dated 29.04.2011 which has not been decided. The petitioner being aggrieved filed the present writ petition.

5. Mr. Ajay Kumar Bhatnagar, Advocate appearing on behalf of the respondent nos. 2 and 3 has referred the order dated 09.11.2020 passed by the Division Bench of this Court in LPA no.335/2020 wherein it was observed as under:-

23. The respondent No.2/Board had taken a decision vide Resolution No. 34/2000 dated 24.05.2000 that no fresh licence shall be granted by Market Committees where new markets are being developed and any individual who wanted to carry out trade of fruits and vegetables as wholeseller or commission agent can do so without any restrictions anywhere in Delhi, outside the notified market yard. A perusal of the decision rejecting the



recommendation of the Market Committee shows that the respondent No.2/Board had vide a Resolution No. 115/2015 had resolved that all the vacant shops will be allotted through e-auction. The Board observed that in spite of rejection of the representation of the appellants, the Market Committee, Shahdara had passed resolutions dated 08.12.2018, 07.02.2019 and 03.01.2020 with the recommendation to consider issuance of licences and allotment of shops. The respondent No.2/Board therefore came to the conclusion that the resolutions being contrary to the decisions taken by it, cannot be accepted. We do not find any infirmity in the order dated 16.10.2020, setting aside the recommendation of the respondent no.1/Committee.

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25. In the absence of any right to get a licence for doing business of selling fruits and vegetables inside the Gazipur Subzi Mandi and in view of the fact that grant of licence is governed by the Rules framed under the Act, the appellants cannot claim that they should be given a licence on the principles of legitimate expectation. In view of the resolution passed by the respondent No.2/Board, the requirement of a licence to conduct business of sale of fruits and vegetables outside the Mandi, has been dispensed with and it cannot be stated that not grant of a licence would affect the right of the appellants to carry on trade/business as contemplated under Article 19 (1) (g) of the Constitution of India.

6. The counsel for the petitioner stated that the petitioner has preferred an appeal under section 82 of DAPM Act, 1998 to impugn the order dated 29.04.2011 issued by the Shahdara Vice Chairman, Delhi Agricultural Marketing Board (DAMB) Subzi Mandi, Delhi for license of 'B' category in favour of the petitioner and the said appeal has not been decided so far. However, Mr. Ajay Kumar Bhatnagar, Advocate for the respondent nos.2 and 3 stated that the petitioner has never filed such appeal before the Vice-Chairman of DAPM Board which is stated to be appellate authority.

7. After considering all facts, the petitioner is given liberty to file a



statutory appeal within 06 weeks from today to impugn the order dated 29.04.2011 whereby the representation submitted by the petitioner was rejected on the ground that the DAMB has imposed ban for grant of fresh license. Thereafter, the respondent no.2/appellate authority/Vice-Chairman, DAMB shall decide the appeal in accordance with law and after considering all the facts as stated on behalf of the respondent nos.2 and 3 in the present petition and other judicial pronouncement within a period of 08 weeks. However, it is also for the respondent no.2/Vice-Chairman, DAMB to consider the issue of limitation under the given facts and circumstances of the case.

8. The petitioner shall be at liberty to initiate appropriate legal proceedings in case of altered circumstances and in particular any decision to be rendered by the respondent no.2 on the statutory appeal, if any.

9. The present petition along with pending application stands disposed of.

DR. SUDHIR KUMAR JAIN, J

AUGUST 21, 2024/j/ak/abk