



\$~36

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

+ **W.P.(C) 13033/2019**

M/S SHRI BHAGWAN HARI BHAGWAN Petitioner
Through: **Mr. Ankit Gupta, Advocate**

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through: **Mr. Udit Malik, ASC for GNCTD**

CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER
21.05.2024

%

1. The present petition is filed under Article 226 of the Constitution for quashing of order dated 15.03.2018 and order dated 15.10.2018 passed by the respondents no. 3 and 2 whereby the license of the petitioner firm in respect of Fair Price Shop (FPS) bearing no. 4109, situated at 447/100 (Part of A-2/5), Main Road, Maujpur, Delhi was cancelled in an arbitrary manner and with further directions for the restoration of said license.
2. It is stated in the petition that in the year 1972, the petitioner was allotted a permanent Fair Price Shop license no. 4109 by the respondent no.3 to distribute essential commodities to the public in Circle no. 67 under the Delhi Specified Articles (Regulation of Distribution), Order 1968, which was renewed from time to time by the respondent no. 3 and lastly, it was renewed upto March, 2018.
3. The respondent no. 3 issued a show-cause-notice dated 07.03.2016 to the petitioner to show cause as to why the said license may not be cancelled.



It was alleged in the notice that the petitioner was not functioning in accordance with terms and conditions of the license issued under Delhi Specified Articles (Regulation of Distribution), Order 1968. It was also alleged that the vigilance branch observed that at the time of applying for renewal of FPS license, the licensee i.e. the petitioner had submitted a rent agreement signed by Rama Mishra, land lady of the property and that the petitioner had applied for renewal of license for the period w.e.f. 22.03.2015 to 22.03.2018, then a rent receipt dated 01.07.2015 was submitted by the petitioner which was stated to be issued by a person, namely, Rohit Sharma without mentioning complete address of the property. It is further alleged that the petitioner has not submitted the document regarding transfer of the property from Rama Mishra to Rohit Sharma.

4. The petitioner filed a reply dated 17.03.2016 to the show-cause-notice dated 07.03.2016 wherein it was stated that there is a dispute between Rama Mishra and Rohit Sharma regarding ownership of the property bearing no. 4109, situated at 447/100 (Part of A-2/5), Main Road, Maujpur, Delhi, which is stated to be pending for adjudication before the Civil Court, Karkardooma Court, Delhi.

5. Subsequently, the Assistant Commissioner(NE), Food and Supplies Department, vide order dated 15.03.2018 bearing no. F.AC(NE)/F&S/FPS-4109/2018/1197-1206 passed the order for cancellation of petitioner's FPS license bearing no. 4109 on the allegation as stated hereinabove. Thereafter, the petitioner filed an appeal before the Appellate Authority/Special Commissioner (Admn.), Department of Food Supplies and Consumers Affairs bearing appeal no. 01/2018 titled as **M/s Shri Bhagwan Hari Bhagwan V The Assistant Commissioner (North-East), Department of**



Food Supplies & Consumers Affairs which was ordered to be dismissed vide order dated 15.10.2018.

6. The counsel for the petitioner stated that the license of the petitioner was cancelled in an arbitrary manner and on the basis of reasons which are not relevant for continuance of FPS license bearing no. 4109. Accordingly, the impugned orders are liable to be quashed.

7. Mr. Udit Malik, Additional Standing Counsel for the respondents stated that as the petitioner could not furnish the valid document regarding the ownership/title of the property bearing no. 4109, situated at 447/100 (Part of A-2/5), Main Road, Maujpur, Delhi whereby the Fair Price Shop under the license no. 4109 is situated and submitted different titled documents on different occasions as such, the license in favour of the petitioner was ordered to be cancelled. The present petition is liable to be dismissed. It is further stated and argued that the complaint made by Rohit Sharma was also received and on the basis of said complaint, the departmental enquiry was initiated against the petitioner.

8. The counsel for the petitioner stated that Shri Bhagwan who was the proprietor of M/s Shri Bhagwan Hari Bhagwan has expired and was succeeded by the legal heirs as mentioned in amended memo of parties dated 20.02.2023. The surviving legal heirs of Shri Bhagwan, who was the proprietor of M/s Shri Bhagwan Hari Bhagwan executed Authorisation Cum No Objection Certificate in favour of Sunil Kumar, who was one of the surviving legal heirs of Shri Bhagwan.

9. The perusal of impugned orders dated 15.03.2018 and 15.10.2018 reflects that the license in favour of M/s Shri Bhagwan Hari Bhagwan was cancelled due to the reasons that the license holder could not produce the



valid title documents in respect of the property bearing no. 4109, situated at 447/100 (Part of A-2/5), Main Road, Maujpur, Delhi of which the Fair Price Shop was a part as a tenanted premises. It is not within the authority and control of the license holder to produce the ownership title in respect of the entire property. The reasons as stated by the respondents in the show-cause-notice as well as the reasons as detailed in the impugned orders dated 15.03.2018 and 15.10.2018 are not valid and cannot be sustained in law. The impugned orders are liable to be set aside.

10. Accordingly, the impugned orders dated 15.03.2018 and 15.10.2018 bearing nos. F. AC(NE)/F&S/FPS-4109/2018/1197-1206 and PS/SS(Admn.)/FPS Appeal/F&S/2018/638-639, respectively, are set aside. The respondents are directed to restore the Fair Price Shop license bearing no. 4109 in favour of the M/s Shri Bhagwan Hari Bhagwan, a proprietorship firm or its lawful/authorised successor in accordance with law.

11. The present petition along with pending applications, if any, stands disposed of.

12. The respondents shall be at liberty to initiate proceedings for cancellation of license in accordance with law and rules and regulations.

DR. SUDHIR KUMAR JAIN, J

MAY 21, 2024

N/AK