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

+ W.P.(C) 12378/2024 & CM APPLs. 51489/2024, 58841/2024

MS MS PANKAJ AND CO & ORS.

.....Petitioners

Through: Dr. Sarvam Ritam Khare,
Advocate.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Akhil Hasija, Advocate for
Mr. Apoorv Kurup, CGSC & Mr.
Gurjas Narula, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.10.2024

1. Issue notice. Mr. Akhil Hasija, learned counsel, accepts notice on behalf of the respondents.
2. By way of this petition, under Article 226 of the Constitution, the petitioners seek an extension of their license for operating their Multi-Purpose Stalls ["MPS"] at New Delhi, Meerut Cantt., Karnal Railway and Sabzi Mandi Delhi Railway stations respectively. The details of the petitioners and their stalls are as follows:

Petitioner No.	Location of unit	Original date of extension period (including <i>dies non</i> period)
1	MPS Stall at New Delhi Railway station.	27.09.2024
2	MPS Stall at Sabzi Mandi Delhi	07.09.2024

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	Railway station	
3	MPS Stall at Meerut Cantt. Railway station.	07.09.2024
	MPS Stall at Karnal Railway station.	02.09.2024

3. Several allottees who held licenses for MPS in various railway stations filed writ petitions in this Court, challenging Clause 5 and Clause 11 of the Commercial Circular No. 61 of 2017 dated 05.09.2017. They relied upon a judgment of the Supreme Court in *Senior Divisional Commercial Manager, South Central Railways and Others v. S.C.R. Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association* [(2016) 3SCC 580].

4. The writ petitions [W.P.(C) 2501/2023, etc.] were disposed on 29.05.2024. The Court came to the conclusion that the writ petitions were devoid of merit, but granted a period of three months (from the date of the extended license after taking into account the *dies non* period for which extension was granted by the Railways, or from the date of judgment, whichever was later) to vacate the units in question, subject to the payment of user license fee. A similar judgment was delivered on 30.05.2024 with regard to catering stalls [W.P.(C) 6771/2024, etc].

5. I am informed that appeals to the Division Bench against these judgments were dismissed, but the matters were carried to the Supreme Court by some of the allottees, including SLP(C) 19229/2024 which applied to MPS cases. The Supreme Court disposed of the SLP by an order dated 27.08.2024, which reads as follows:

- “1. Heard the learned counsel appearing for the respective parties.
2. We are not inclined to interfere with the impugned judgment



and order passed by the High Court. We however extend the time granted by the learned Single Judge of the High Court in its order dated 29.05.2024 by four months from today. All the allottees shall vacate and handover the vacant possession of the stalls in question before the expiry of four months subject to filing of the usual undertaking before the Registry of this Court within four weeks from today.

3. Accordingly, the Special Leave petition is disposed of.

4. Pending application(s), if any, shall stand disposed of.”

6. In the meanwhile, some of the allottees, who had not earlier challenged the circular, filed writ petitions before this Court. These petitions were dismissed by the learned Single Judge. Orders dated 16.07.2024 in W.P.(C) 9231/2024 and 30.07.2024 in W.P.(C) 10459/2024 have been brought to my attention. The coordinate Bench found that those allottees who had not come to the Court, cannot be granted the benefit of the extension. The aforesaid orders were carried to the Division Bench by way of LPA No. 746/2024 and LPA 767/2024. In both cases, the Court applied the principle of parity with the allottees who had filed writ petitions, and directed that the later petitioners ought to be granted three months' time from the date of expiry of their licenses to vacate the stalls in question. It was further directed that, if the stalls were not removed with the extended period, the respondents would be at liberty to remove the goods forthwith, without filing any proceedings.

7. The present petitioners are in a situation similar to the petitioners who were granted relief by the Division Bench, in as much as, the present petitioners were also not party to the proceedings in the earlier batch of cases. In the course of hearing, Mr. Sarvam Ritam Khare, learned counsel for the petitioners, states that he will be satisfied with an order on the same lines as granted by the Division Bench in LPA 746/2024 i.e., that



the petitioner be given three months' time from the date of the expiry of the extended period of license [as described in the table above].

8. Mr. Akhil Hasija, learned counsel for the respondents, does not dispute that the petitioners are similarly placed to the writ petitioner/appellant in the said case, but submits that, as before the Division Bench, the respondents dispute the applicability of the principle of parity.

9. As the Division Bench has already held that the principle is applicable to similarly situated persons, I am of the view that the present petitioners are also entitled to the same relief.

10. The petition is disposed of with the direction that, subject to payment of license fee, the petitioners are granted time of three months from today, i.e., 08.10.2024, to vacate the stalls in question.

11. The writ petitioners will file an undertaking that they will vacate the stalls in question upon expiry of the period granted by this Court. The undertaking be filed within a period of four weeks from today. If the petitioners fail to comply, the respondents will be free to remove their goods from the site.

PRATEEK JALAN, J

OCTOBER 8, 2024

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