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

+ W.P.(C) 14453/2024

SHABANA KHATUN

.....Petitioner

Through: Mr. Tamim Qadri, Advocate.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Akash Chatterjee, SPC with
Mr. Chetan Jadon, GP for UoI.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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15.10.2024

CM APPL. 60592/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 14453/2024 & CM APPL. 60591/2024 (stay)

1. Issue notice. Mr. Akash Chatterjee, learned counsel, accepts notice on behalf of the respondents.
2. By way of this petition, under Article 226 of the Constitution, the petitioner seeks an extension of her licenses for her stalls at *Hajipur Railway station* and *Katni Murwara Railway station*. The tenure of the licenses were set to expire on 22.10.2024 and 28.10.2024 respectively after grant of the period of *dies non* for the COVID-19 lockdown period.
3. Several allottees who held licenses for Multi-Purpose Stall ["MPS"] and Catering Stalls in various railway stations filed writ petitions in this Court, challenging Clause 11 of Commercial Circular No.



20 of 2017 issued on 27.02.2017 and Clauses 5 and 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. Before this Court, the writ petitions were divided into two batches, one dealing with MPS Stalls and other dealing with Catering Stalls. The MPS batch [W.P.(C) 2501/2023, etc.] was disposed on 29.05.2024, and the Catering batch [W.P.(C) 6771/2024, etc.] was disposed of on 30.05.2024. In both cases, 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, or from the date of judgment, whichever was later) to vacate the units in question, subject to the payment of user license fee.

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 catering stalls in question. It was further directed that, if the catering 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 petitioner is in a situation similar to the petitioners, who were granted relief by the Division Bench, inasmuch as, the present petitioner was also not party to the proceedings in the earlier batch of cases. In the course of hearing, Mr. Tamim Qadri, learned counsel for the petitioner, 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 [i.e., 22.10.2024 and 28.10.2024].

8. Mr. Chatterjee does not dispute that the petitioner is 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 petitioner is also entitled to the same relief.

10. The petition is disposed of with the direction that, subject to payment of license fee, the petitioner is granted time of three months from 22.10.2024 and 28.10.2024 respectively, to vacate the stall in question.

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

PRATEEK JALAN, J

OCTOBER 15, 2024

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