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

+ **W.P.(C) 15490/2024**

MUKESH KASHYAP

.....Petitioner

Through: Mr. Jitender Mehta, Advocate.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Vinay Yadav, SPC with Mr.
Abhinav M. Goel, Advocate & Mr.
Amit Gupta, GP.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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07.11.2024

CM APPL. 65009-65010/2024 (for exemption)

Exemptions allowed, subject to all just exceptions.

The application stand disposed of.

W.P.(C) 15490/2024 & CM APPL. 65008/2024

1. The petitioner operates a catering stall at Farrukhabad Railway Station. He has filed this writ petition challenging Clause 11 of the Commercial Circular dated 27.02.2017 by the respondent –Railways and also assails an order dated 09.08.2024 by which the competent authority has granted him an extension of the license for a period of 90 days from 11.08.2024 to 09.11.2024 on account of dies non period.

2. The same circular was assailed by several license holders in a batch of petitions [W.P.(C) 6771/2024 & connected matters]. The petitions were dismissed by a judgment of this Court dated 30.05.2024, but some



time was granted for vacating the catering units in question. Paragraph 30 of the judgment reads as follows:

“30. In the circumstances, this Court finds no merit in the present petitions and the same are accordingly dismissed. However, since the petitioners have been operating these minor catering units for a significant period of time, to enable the petitioners to make a transition and make alternative vending arrangement/s, this Court considers it apposite to grant a period of 3 months to the petitioners (from the date of the extended license period after taking into account the dies non period; OR from the date of this judgment, whichever is later) to vacate the catering units in question. The same shall be subject to payment of usual license fee. It is directed accordingly.”

3. The judgment dated 30.05.2024 was assailed before the Division Bench, but the appeals were dismissed. Against the orders of the Division Bench, the petitioners approached the Supreme Court. By an order dated 18.10.2024 in SLP (C) 24748/2024, the Supreme Court followed an earlier order dated 27.08.2024 in SLP(C) 19229/2024 and granted time of four months from the date of the order dated 27.08.2024, i.e., until 27.12.2024 to the petitioners therein.

4. In the meanwhile, several petitions were filed for similar relief by license holders, who were not parties to the original batch of petitions. The learned Single Judge refused relief to those petitioners, who then approached the Division Bench. As far as license holders, who were not party to the original batch of petitions, are concerned, the Division Bench by order dated 05.08.2024 in LPA 746/2024 [*Ms Kaushalya Meena v. Union of India & Ors.*] granted three months' time from the end of the dies non period to the said petitioners, on the principle of parity.

5. This Court has also in several cases followed the same principle, as



laid down by the Division Bench, and granted an extension of three months from the end of the dies non period to enable the licensees to vacate the stalls in question.

6. In the present case, the petitioner was awarded the license on 24.05.2019. His license expires on 09.11.2024, after grant of the period of dies-non for the COVID-19 lockdown period.

7. Mr. Jitender Mehta, learned counsel for the petitioner, submits that the Supreme Court, by order dated 18.10.2024 in SLP(C) 23319/2024, has granted time until 15.02.2025 to the petitioners therein to vacate the stalls. The said order of the Supreme Court reads as follows:

- “1. The issue arising for consideration in these Special Leave Petitions is covered by our order dated 27.08.2024 passed in SLP(C)No.19229/2024. While we are not inclined to interfere with the order(s) passed by the High Court, we grant time till 15.02.2025 to the petitioner(s) to vacate and handover the vacant possession of the premises in question subject to filing of usual undertaking before this Court within three weeks from today.*
- 2. Accordingly, the Special Leave Petitions are disposed of.*
- 3. Pending applications, if any, shall stand disposed of.”*

8. Mr. Mehta states that the petitioners before the Supreme Court had also filed writ petitions, which were pending before this Court at the time the judgment dated 30.05.2024 was delivered, but their petitions were disposed of on 18.07.2024.

9. The aforesaid order dated 18.10.2024 does not direct that all license holders are to be granted time until 15.02.2025, regardless of whether they had approached the Court in time. I have not been shown any judgment of the Division Bench or the Supreme Court which grants an extension of more than three months to any license holder, who had not approached the Court prior to the judgment dated 30.05.2024. In the



case of license holders who had approached the Court prior to the judgment dated 30.05.2024, the order of the Supreme Court dated 27.08.2024 has been applied to their benefit, but the case of the present petitioner does not fall in the same category. The order of the Division Bench dated 05.08.2024 applies in the case of persons who have approached the Court after the judgment dated 30.05.2024, by which the extension is limited to the period of three months after expiry of the dies non period.

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

11. The petition is disposed of with the direction that, subject to payment of license fee, the petitioner is granted time of three months from 09.11.2024, to vacate the stall in question.

12. The writ petitioner will file an undertaking that he will vacate the stall 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 his goods from the site.

PRATEEK JALAN, J

NOVEMBER 7, 2024

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