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

+ **W.P.(C) 16389/2024**

**DOWNTOWN VILLAGE (A UNIT OF RAGEE
ENTERTAINMENT)**

.....Petitioner

Through: Mr. Ankit Jain, Senior Advocate with
Mr. Momin Fazal, Mr. A.F Faizi, Mr.
F.A. Khan, Mr. Videh Vaish, Mr.
Kashif Zafar, Ms. Soumya Singh, Mr.
Rehan Ahmad Khan, Mr. Ajeet
Yadav, Advocates

versus

GOVERNMENT OF NCT OF DELHI

.....Respondent

Through: Mr. Prashant Manchanda, ASC for
GNCTD with Ms. Nancy Shah, Ms.
Isha Baloni, Advocates with Mr. Amit
Kumar, ASO, Excise Dept.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

02.12.2024

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CM APPL. 69084/2024 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

W.P.(C) 16389/2024 & CM APPL. 69083/2024 (for interim relief)

4. Mr. Ankit Jain, Senior Counsel for the Petitioner, acknowledges that Rule 51(10) of the Delhi Epexcise Rules, 2010 as cited by Mr. Prashant



Manchanda, noted in the previous order, accurately reflects the legal position. Consequently, the requirement of Eating House Licence is a prerequisite for obtaining an Excise Licence (License L17 and License L17F). On this issue, Mr. Jain candidly admits that presently, the Petitioner does not possess an Eating House Licence as his application for grant of the said Licence was rejected by the Additional Commissioner of Police, Licensing through communication dated 18th December, 2023. It is further stated that both the Petitioner and the Market Association have made a representation to the Commissioner of Police, seeking his intervention to resolve the issue pertaining to the Eating House Licence. Additionally, Mr. Jain states that the Petitioner is in the process of filing an appropriate reply to the impugned show cause notice dated 22nd November, 2024. He emphasizes that the Petitioner's challenge is to the sealing of the Bar Counter and L-17 Store.

5. As regards the issue of sealing of the Bar Counter and L-17 Store of Petitioner-restaurant, upon being queried by the Court, Mr. Manchanda submits that the Respondent's power of sealing emanates from Section 17 of the Delhi Excise Act, 2009. He further submits that only the liquor stock at the Petitioner's premises has been sealed, and not the premises itself. Additionally, Mr. Manchanda highlights that Clause "r" of Licence L17 and L17F provides that in the absence of any Mandatory Link Licence—such as the Eating House Licence, which the Petitioner did not possess on the date of renewal on 1st April, 2024—the Excise Licence is liable to be deemed cancelled. For ease of reference, the said Clause is reproduced below:

“r. This is subject to the fact that in any of the linked licences/permissions are cancelled, the excise licence will be deemed cancelled.”



6. On the issue of validity and authenticity of the Licence L17 and L17F annexed to the petition as Annexure P-9, which was doubted by the Respondent, Mr. Jain urges that the said document was downloaded from the Respondent's website and the Licence was granted for a period of two years i.e. from 1st April, 2023 to 31st March, 2025. Mr. Manchanda, however, controverts the said position, submitting that under Rule 41 of the Delhi Excise Rules, 2010, licences are renewed on annual basis. He further points out that as per the records of the Excise department, the renewal was for the period 2024-2025.

7. The Court has examined the facts and considering the arguments presented. It emerges that the Petitioner has failed to fulfil the mandatory prerequisite under Rule 51(10) of the Delhi Excise Rules, 2010, which requires a valid Eating House Licence for obtaining an Excise Licence. However, since the impugned communication is only a show cause notice affording the Petitioner an opportunity to present their case, the Court refrains from expressing an opinion on this issue.

8. This brings us to the issue of whether the Respondent-authority has the power to seal liquor under the Delhi Excise Act, 2009 and the Delhi Excise Rules, 2010. Upon a bare reading of Section 17 of the Delhi Excise Act, 2009, it is evident that licencing authorities are empowered to suspend or cancel licences and permits issued under the said Act. The language of the provision is precise and unambiguous, confining the authority's actions to the specific measures stipulated therein. There is no indication, either express or implied, that the said provision grants the power to seal the Bar Counter and L-17 Store, to the Respondent, particularly when the licence



has neither been suspended nor expressly revoked.

9. In light of the foregoing discussion, the present writ petition is disposed of with the following directions:

9.1. The Bar Counter and L-17 Store of Petitioner-restaurant which is sealed pursuant to the sealing report dated 22nd November, 2024, shall be de-sealed. The Respondent is directed to issue the necessary orders to this effect.

9.2. The Petitioner shall furnish a response to the impugned show cause notice, including their stand/contentions regarding the validity of the Excise Licence L17 and L17F annexed to the petition as Annexure P-9. Since the time period stipulated in the show cause notice is expiring shortly, the timeline for submitting the reply is extended for a period of 15 days from today.

9.3. Upon receipt of the reply, the Respondent shall consider the Petitioner's response and take a decision thereon, in accordance with law.

9.4. Since the Petitioner does not possess the Eating House Licence, they shall not operate the restaurant from the premises or allow any sale or consumption of the liquor, till such time the said License is granted.

10. It is further clarified that the de-sealing action referenced above must not be construed as grant of permit to Petitioner to sell liquor from their premises.

11. With the above directions, the present petition, along with pending application(s), if any, is disposed of.

SANJEEV NARULA, J

DECEMBER 2, 2024/ab