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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 17858/2024**

SMT SAMITA S KUSHWAHAPetitioner
Through: Mr. Jitender Mehta, Mr. Lalit
Kumar and Mr. Shivam Pahal,
Advocates.
versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Sushil Raaja, SPC with Mr.
Kapil Dev Yadav, G.P. for UOI.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
% **23.12.2024**

CM APPLs. 75987/2024 & 75988/2024 (Exemptions)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

W.P.(C) 17858/2024 & CM APPL. 75986/2024 (for stay)

1. By way of this petition under Article 226 of the Constitution, the petitioner seeks an extension of his license for operating a catering stall at *Kasara Railway Station*.
2. The petitioner was awarded the license on 11.09.2019. Her license expires on 31.01.2025 after grant of the period of dies-non for the COVID-19 lockdown period.
3. The petitioner's case is based upon orders passed in similar cases.
4. 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. They relied upon a judgment of the Supreme Court in *Senior Divisional Commercial Manager, South Central Railways and Others vs. S.C.R. Caterers, Dry Fruits, Fruit Juice Stalls Welfare Association* (2016) 3SCC 580.

5. 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.

6. 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.”*

7. In the meanwhile, some of the allottees, who had not earlier challenged the circular, filed writ petitions before this Court. Two orders placed on record show that the petitions were dismissed by the Single Judge [order dated 16.07.2024 in W.P.(C) 9231/2024 and order dated 30.07.2024 in W.P.(C) 10459/2024]. 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.

8. The present petitioner is in a situation similar to the petitioners, who were granted relief by the Division Bench, in as much as, the present petitioner was also not party to the proceedings in the earlier batch of cases. In the course of hearing, 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 and LPA 767/2024 i.e. that the petitioner be given three months' time from the date of the expiry of the extended period of license [i.e. 31.01.2025].

9. Learned counsel for the respondents, does not dispute that the petitioner is similarly placed to the writ petitioner/appellant in the said



two cases, but submits that, as before the Division Bench, the respondents dispute the applicability of the principle of parity.

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 31.01.2025, to vacate the stall in question.

12. The writ petitioner will file an undertaking that she 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 her goods from the site.

PRATEEK JALAN, J

DECEMBER 23, 2024/MR/kb/