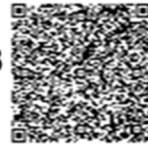


CWP-3153-2023 (O&M)

2025:PHHC:088506-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-3153-2023 (O&M)
Date of Decision: July 18, 2025

M/S BHAGYA FOODS AND WINES PVT LIMITEDPetitioner

Versus

STATE OF HARYANA AND OTHERS Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Shaurya Khanna, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana
for respondents No. 1 to 4.

Mr. Anil Mehta, Advocate and
Mr. Sukriti Kaur, Advocate for respondent No. 5.

Mr. Karan Sachdeva, Advocate
for the applicant in CM-11135-CWP-2023.

LISA GILL, J.

1. Prayer in this writ petition is for setting aside order dated 16.12.2022 (Annexure P10) passed by Deputy Excise and Taxation Commissioner (Excise), Gurugram.

2. Brief facts as pleaded in the writ petition are that petitioner applied for L4/L5 licence in Gurugram (West) for sale of liquor in Restaurant and Bars on 06.01.2022. Petitioner – Company, it is stated, prior thereto, as per requirement of Haryana Excise and Taxation Policy for the years 2021-22 and 2022-23 had taken two properties on rent for a period of

CWP-3153-2023 (O&M)

nine years each. Copies of lease agreements dated 16.11.2021 and 12.11.2021 are attached with writ petitions as Annexures P2 and P3, respectively. Application dated 06.01.2022 remained pending on the premise of pendency of Civil Writ Petitions Nos. 18644, 18906, 18959 of 2018 and 19119 of 2018. CWP-26190-2022 was filed by petitioner when its application was not being decided. This writ petition was disposed of on 05.12.2022 while taking note of statement made by learned counsel for State that application submitted by petitioner for grant of licence L4/L5 was considered by a duly constituted Joint Committee headed by Deputy Commissioner, Gurugram and it had been decided not to grant such licence in petitioner's favour and that final order of rejection would be conveyed to the petitioner. Writ petition was, accordingly, disposed of with liberty to petitioner to take legal recourse in accordance with law upon receipt of rejection order. Present petition was then filed challenging said rejection order.

3. Learned counsel for petitioner vehemently argued that petitioner's application for grant of licence has been primarily rejected on the ground of various complaints received from different Resident Welfare Associations in the area of Mehrauli, Gurugram road at MGF Metropolitan Mall and in view order No. 8, 9, 10 and 11 of Punjab Intoxicants Licence and Sales Order, 1956. It was submitted that said orders are not applicable to multiplexes, shopping malls or pub licences as is evident from Section 11B of Punjab Intoxicants Licence and Sales Order, 1956. It was strenuously urged that there is in fact not a single ground upon which petitioner's application can be rejected. Two bars are already operating in the same premises as petitioner, having been granted L4/L5 licences which are being renewed annually. Furthermore, reliance upon objections received from ESSEL Tower Residents' Welfare Association is

CWP-3153-2023 (O&M)

factually incorrect as said Resident Welfare Association has given its no objection for grant of liquor licence to petitioner as reflected from communication dated 27.12.2022 (Annexure P17). It was further submitted that request for grant of licence in any case could not have been rejected on such objections. Moreover, petitioner had submitted an undertaking that it is willing to comply with conditions as imposed by Committee constituted in compliance of order dated 20.12.2018 passed in CWP-18644-2018. Procedure provided under Order 13 and 14 of Punjab Intoxicants Licence and Sales Order 1956, it is submitted, has been completely bypassed.

4. In respect to objection raised on behalf of respondent that Excise Policy in question was for the year 2022-23, therefore, writ petition itself is rendered infructuous was sought to be negated by learned counsel for petitioner with submissions that the only difference in new Policy of 2024-25 is in respect to licence fee and that even if the petitioner applies for new Policy, it in all probability shall be rejected on the same ground that Department has already rejected its earlier application. It was further submitted that liquor licence has been granted to two more clubs/restaurants in the same Mall i.e. Queens club and Empire club and that one more Restaurant in adjoining Sahara Mall by the name of M/s The Diamond have been granted permission post 2013. Petitioner, it is submitted, had invested for creating huge infrastructure in the hope of grant of L4/L5 licence and has been put to grave prejudice by the action of respondent. It is, thus, prayed that writ petition be allowed and respondents be directed to grant licence of L4/L5 to the petitioner.

5. Learned counsel for respondents has refuted the arguments as raised. It was submitted that first and foremost, Excise Policy for the year in question has come to an end, therefore, present writ petition in any case is

CWP-3153-2023 (O&M)

infructuous. Furthermore, petitioner failed to avail efficacious alternate remedy(ies) available to it under Haryana Excise Act, 1914, therefore, writ petition should be dismissed on these grounds itself.

6. Learned counsel for respondents point out that application submitted by petitioner for grant of L4/L5 licence was considered by a duly constituted Committee headed by Deputy Commissioner, Gurugram. Learned counsel further referred to proceedings in CWP-18644-2018 wherein vide order dated 20.12.2018 proposal that matter for grant of operation of Bar licences in MG road area shall be examined by a Committee consisting of Deputy Commissioner Gurugram, Deputy Commissioner of Police of concerned area and Deputy Excise and Taxation Commissioner, Gurugram, was accepted. Committee in question, deliberated over the issue of grant of L4/L5 licence to petitioner – Company and it was after taking into account complaints of nuisance in the area due to operation of various clubs and restaurants and objections raised by local people, its application was rejected.

7. Learned counsel for respondent further submitted that reliance upon provisions of Punjab Intoxicants Licence and Sales Order, 1956 is of no avail to petitioner as Clause 11-A and 11-B thereof are not applicable to the State of Haryana. All averments in the writ petition challenging rejection of petitioner's application for grant of such licence have been denied. Learned counsel for respondents prayed for dismissal of writ petition.

8. We heard learned counsel for parties at length and have carefully scrutinized the file.

9. At the outset, it is to be noted that CWP-18644-2018 had been filed by 'Empire and Queens Club' for setting aside order dated 24.07.2018 passed by Commissioner of Police, Gurugram whereby No Objection Certificates granted

CWP-3153-2023 (O&M)

to them for running club, bar and lounge had been withdrawn without issuance of any show cause notice. Certain suggestions were set forth in affidavit dated 17.12.2018 of the then Assistant Commissioner of Police, DLF Gurugram filed in the said writ petition. It was stated by learned counsel for State on 20.12.2018 during proceedings in CWP-18644-2018, that matter shall be examined by the Committee consisting of Deputy Commissioner, Gurugram, Deputy Commissioner of Police of concerned area and Deputy Excise and Taxation Commissioner, Gurugram and after considering suggestions given by the police and petitioner therein, report would be filed in the Registry within a month. In view thereof, writ petition was disposed of while observing that no cause of action survived and that District Police would be at liberty to act as per order dated 03.12.2018 passed in the said writ petition.

10. Subsequently, in CM-2166-2019 in CWP-18644-2018, report of the Committee constituted in terms of order dated 20.12.2018 passed in CWP-18644-2018 was placed on record. It was reported by the Committee that after going through suggestions given by the police as well as petitioner in CWP-18644-2018, it was decided that apart from regulations as per Excise Policy and conditions of NOC given by District Administration and Police, clubs and bars where there have been incidents of brawl or where other complaints of serious nature were reported to District Administration of Police, they would have to adhere to certain conditions as were detailed in the report. Copy of this report is attached as Annexure P-12 with the present writ petition as well. Stand of the State to the effect that guidelines adopted by Administration at Gurugram shall be applied uniformly to all night clubs in Gurugram, was accepted by writ Court and noted in order dated 04.04.2019 in CM-3361-2019 in CWP-18644-2018. Application was disposed of as no cause of action survived.

CWP-3153-2023 (O&M)

11. Application submitted by present petitioner for grant of licence was duly considered by the Committee in question and was rejected, in view of report of local police and resistance of local residents of the area, it is explained in the written statement filed on behalf of respondents No. 1 to 3 that presently there were only two bar licences active in the jurisdiction of DETC (Excise) Gurugram (West) in Metropolitan Mall which were granted in year 2016 respectively and renewed since then on annual basis. Area on the opposite side of road i.e. right side of MG road while going from Gurugram to Mehrauli, it is stated, falls under jurisdiction of DETC (Excise) Gurugram (East) and in this area as well, no licence had been granted after 15.11.2021 i.e. after issuance of orders for examination of any new applications by Joint Committee headed by Deputy Commissioner, Gurugram. It is reiterated in the written statement that no licence had been granted after 15.11.2021 in either Gurugram (East) or Gurugram (West) in the area of MG road around Metropolitan Mall. Licence of 'M/s The Diamond' was granted on 19.11.2019. It was further pointed out by learned counsel for respondent that argument raised on behalf of petitioner that ESSEL Tower Residents' Welfare Association had issued No Objection Certificate to grant of L4/L5 licence to the petitioner was of no avail because as per letter dated 07.03.2023, said NOC had been withdrawn.

12. In the given facts and circumstances, where period of licence i.e. 2022-23 as applied for by the petitioner under Excise Policy for the said year has clearly come to an end, we find that adjudication in the present matter would indeed be an academic exercise which is not called for.

13. Argument raised by learned counsel for petitioner that any fresh application filed by petitioner may suffer the same fate, is clearly presumptive and cannot be a ground to enter adjudication of the matter at this stage. If/as and

CWP-3153-2023 (O&M)

when, petitioner choses to submit fresh application for grant of L4/L5 licence in tune with existing Excise Policy, same would be decided expeditiously in accordance with law presently applicable Rules, Regulations and Policy and definitely within a period of four weeks of submission of such application.

14. Needless to say, competent authority/Committee would take a decision on the fresh application, if any, submitted by petitioner without being prejudiced by earlier rejection and after considering the facts, circumstances, applicable Rules, Regulations, Policy and guidelines as prevailing at that relevant point of time.

15. Application filed by MGF Metropolitan Mall, MG Road, Sarhol, Gurugram seeking impleadment calls for no orders at this stage in view of the above. Application is disposed of, accordingly.

16. Writ petition is, accordingly, disposed of.

17. Pending application(s), if any, stand(s) disposed of, accordingly.

(LISA GILL)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

July 18, 2025
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No