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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 223/2025 & CM APPL. 18184/2025, CM APPL. 18185/2025
CM APPL. 18186/2025, CM APPL. 18187/2025, CM APPL.
18188/2025

SMT SMITA S KUSHWAHA

.....Appellant

Through: Mr.Jitender Mehta, Adv. with
Mr.Lalit Kumar, Mr. Abhinav Kumar
and Mr.Shivam Pahal, Advs.

versus

UNION OF INDIA & ORS.

.....Respondent

Through: Mr.Sushil Raja, SPC with Mr.Kapil
Dev Yadav, GP and Mr. Divakar
Kapil, Adv. for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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28.03.2025

CM APPL. 18188/2025 (for condonation of delay in filing the appeal)

1. Cause show is sufficient. Accordingly, the application is allowed.
Delay of 65 days in filing the appeal is condoned.
2. The application stands disposed of.

LPA 223/2025

3. The appellant has filed the present appeal impugning an order dated 23.12.2024 (hereafter the impugned order) passed by the learned Single Judge in W.P.(C) 17858/2024 captioned "*Smt. Samita Kushwaha vs. Union of India & Ors.*"
4. The appellant had filed the said petition under Article 226 of the Constitution of India, impugning Clause 11 of the Commercial Circular



No.20 of 2017 dated 27.02.2017 in respect of the Catering Policy, 2017. In terms of the said catering policy, the licence term of 'minor units' allocated to the various licensees was confined to a period of five years.

5. The appellant was allotted a Minor Catering Stall No./Name KSRA-S-1 at Platform No.4 of Kisara Railway Station. The term for which the licence was granted to the appellant, including dies non period on account of COVID, expired on 31.01.2025.

6. The Commercial Circular dated 27.02.2017 was the subject matter of challenge in a batch of petitions as well, which was rejected by the learned Single Judge. The said decision was also upheld by the Division Bench of this Court. The said matters then travelled to the Hon'ble Supreme Court. However, the Supreme Court also declined to interfere with the judgments passed by this Court. Although, in some cases, the Hon'ble Supreme Court also granted further four months' time to the allottees to hand over their respective units.

7. Admittedly, the appellant is required to vacate the stall licenced to her on expiry of the licence term. However, the learned Single Judge as well as this Court had, in matters granted the allottees further time of three months to vacate the same. And as stated above, the Hon'ble Supreme Court had allowed further period of four months over and above the time granted by this Court.

8. The learned counsel appearing for the appellant submits that on the principle of parity, the appellant may also be granted additional four months' time to vacate the unit. It is seen that the learned Single Judge had in terms of the impugned order granted three months' time from the expiry of licence period to the appellant to vacate the unit. However, the appellant



submits that a further period of four months may be granted from the expiry of said period of three months, in parity with the other petitioners.

9. The learned counsel for the appellant further assures this Court that no further time would be sought and submits that an undertaking to the said effect as well as to the effect that it would vacate and handover the unit to the concerned authorities on or before the expiry of the additional period of four months as sought, would be furnished.

10. In view of the above, the present appeal is disposed of by granting the appellant further four months extension from 01.05.2025 i.e., the date of expiry of period granted by the learned Single Judge, till 31.08.2025 to handover the allocated stall to the concerned authorities.

11. We, however, clarify that this order would be operative on the appellant furnishing an undertaking to this Court to the effect as noted above within a period of one week from today with an advance copy to the learned counsel for the respondents.

12. It is clarified that if the undertaking is not filed within the aforesaid period, the respondents will be at liberty to take steps to forthwith evict the appellant from the said unit as the license term has expired.

13. Pending applications shall also stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

MARCH 28, 2025/rl