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

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Date of Decision: 20.04.2026

+ **LPA 488/2025 & CM APPLs. 46303-04/2025 & 58188/2025**

NEW DELHI MUNICIPAL COUNCIL

.....Appellant

Through: Mr. Tushar Sannu with Ms. Priyanka Tiwary, Mr. Pulak Gupta Joshi, Advs. Mr. Rajiv Kumar, Senior Assistant, Ms. Ashwani Bhardwaj, Section Officer.

Versus

RAJIV KOHLI

.....Respondent

Through: Mr. Abhishek Jandilya, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (ORAL)

CM APPL. 46305/2025

1. For the reasons stated in the application, the same is allowed and consequently the delay of 62 days in filing the appeal is condoned.
2. The application stands disposed of.

LPA 488/2025 & CM APPLs. 46303-04/2025 & 58188/2025

3. The present *intra-court* appeal has been preferred being aggrieved by the order dated 23.04.2025 (“**Impugned Order**”) passed in W.P.(C) No. 5657/2024 (“**Writ Petition**”) whereby the Writ Petition was disposed of with a direction to the Respondent to file a fresh application for renewal of



the License for Shop No. 3, Mohan Singh Place Market, New Delhi (“**Shop**”) and pending the consideration of the Renewal Application, the Appellant was directed to de-seal the Shop.

4. Subsequent to the passing of the Impugned Order, the Respondent preferred CM No. 34606/2025 seeking clarification of the Impugned Order. *Vide* order dated 29.05.2025 (“**Clarification Order**”), the learned Single Judge clarified that the arrears as mentioned in the Impugned Order shall also refer to any future arrears / dues, that may fall due, after the de-sealing of the Shop.

5. The brief factual matrix leading up to filing of the present Appeal is as under:

5.1 On 23.11.2010, Respondent and his late brother were allotted the Shop, and a Deed of License was executed for the term of license, which was up to 31.03.2019. As the Respondent defaulted in payment of License Fee, the Appellant did not renew the License Deed upon its expiry on 31.03.2019. As the License Deed was not renewed, the Appellant sealed the Shop on 19.07.2019. Accordingly, the Appellant initiated eviction proceedings under Sections 5 and 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (“**PP Act**”) before the Estate Officer.

5.2 In March 2022, the Respondent approached this Court by way of Writ Petition being W.P.(C) No. 4522/2022 seeking de-sealing and direction to the Appellant to refrain from charging License Fee for the period the Shop remained sealed. *Vide* order dated 15.02.2023 passed in W.P.(C) No. 4522/2022, this Court directed the Respondent to make a representation to the Appellant, and it was directed that Appellant shall grant a personal hearing and, subsequently, pass a speaking order within four weeks. A



liberty was also granted to the Respondent to seek remedies as per law, if aggrieved by such decision.

5.3 Pursuant thereto, the Respondent made a representation on 22.02.2023 and a personal hearing was afforded on 06.03.2023. However, a speaking order was passed only on 04.04.2024 after filing of the Contempt Petition being CONT. CAS. (C) No. 32/2024 before this Court (“**Contempt Petition**”) by the Respondent for wilful disobedience of the order dated 15.02.2023 passed in W.P.(C) No. 4522/2022. In the order dated 04.04.2024, the Appellant rejected the Representation of the Respondent for granting extension of License of the Shop.

5.4 *Vide* Judgment dated 08.04.2024, this Court disposed of the Contempt Petition while observing that as the Appellant had passed the speaking order on 04.04.2024, the Respondent was granted liberty to challenge the same in accordance with law in an independent proceeding in view of the stand taken by the Appellant that the License Deed had already expired and the Appellant had decided not to renew the same. At the same time, the Respondent was given time of three weeks to vacate and hand over the possession of the Shop instead of seven days granted in order dated 04.04.2024 passed by the Appellant.

5.5 Being aggrieved by the order dated 04.04.2024, the Respondent preferred the Writ Petition seeking quashing of the order dated 04.04.2024 and a direction to the Appellant to de-seal the Shop.

5.6 *Vide* the Impugned Order, the Writ Petition was disposed of while observing that the Respondent should be extended the same treatment as other shopkeepers whose application for renewal of the license were considered by the Appellant and, accordingly, the Respondent was directed



to file a fresh application for renewal of the License of the Shop and pending the consideration of the Renewal Application, the Shop was directed to be de-sealed. Further, the Respondent was directed to comply with all the directions issued by the Appellant including the timely payment of the prescribed license fee and outstanding arrears. *Vide* the Clarification Order, it was clarified that the arrears as mentioned in the Impugned Order shall also refer to any future arrears / dues, that may fall due, after the de-sealing of the Shop.

5.7 In view of the above, the Appellant has preferred the present Appeal for setting aside of the Impugned Order and the Clarification Order.

6. Learned Counsel for the Appellant submitted that the case of the Respondent is not of renewal but transfer of license as the Shop was originally licensed to the Respondent and his brother Late Manoj Kohli for the period ending on 31.03.2019. However, after the demise of brother of the Respondent in or around 2023-24, the Respondent will have to apply for transfer of the license in his name before any extension can be considered by the Appellant.

7. Learned Counsel for the Appellant further submitted that the reference to other similarly situated shops in the Impugned Order was misplaced as the facts and circumstances under which the said Shops were de-sealed were completely different. As per the record available with the Appellant, Shop Nos. 6 and 95 were never sealed and, therefore, the question of de-sealing of the same did not arise and Shop No. 76 was de-sealed in 2019, however, no eviction proceedings were pending against the licensee at that time. However, in the facts of the present case, eviction proceedings are ongoing under Sections 5 and 7 of the PP Act. Accordingly,



the facts of the present case are entirely distinguishable from the other similarly situated shops referred in the Impugned Order. In view of the same, the equation of the facts and parity drawn by the learned Single Judge was factually incorrect.

8. Learned Counsel for the Appellant further contended that the learned Single Judge did not take into account that the order dated 04.04.2024 was issued in adherence to the principles of natural justice and, consequently, no relief ought to have been granted in the Writ Petition. Additionally, it was submitted that the Respondent does not possess a vested right to seek renewal of the license or a direction compelling execution of the License Deed against the Appellant. The discretion to renew the license rests solely with the Appellant.

9. Learned Counsel for the Appellant submitted that the learned Single Judge failed to consider that the Respondent was in unauthorized occupation of the Shop and, therefore, the sealing of the property on 19.07.2019 was inevitable and justified.

10. Learned Counsel for the Respondent asserted that the Shop was sealed without the issuance of a Show Cause Notice, and no sealing order was furnished by the Appellant. Furthermore, it was argued that the purported justification for the sealing concerned outstanding payment of dues however, as of 31.07.2019, the Respondent had settled all such dues and provided documentary evidence in support thereof with the Writ Petition.

11. Learned Counsel for the Respondent additionally submitted that, although the Appellant was directed to issue a speaking order within four weeks from the order dated 15.02.2023 passed in W.P.(C) No. 4522/2022, the Appellant failed to comply with the prescribed timeframe and passed the



speaking order only on 04.04.2024 after the Respondent filed the Contempt Petition. The Judgement dated 08.04.2024 passed in the Contempt Petition explicitly states that the circumstances surrounding the de-sealing of other shops were not addressed by the Appellant in the order dated 04.04.2024. Consequently, this omission amounted to discrimination against the Respondent and constituted a violation of Article 14 of the Constitution of India, 1950.

12. It was submitted on behalf of the Respondent that license of Shop No. 96, Mohan Singh Place Market expired on 31.03.2010 and that of Shop No. 76, Mohan Singh Place Market expired on 16.06.2009 and despite the same these two shops were de-sealed by the Appellant. Further, after the sealing of the Shop on 19.07.2019, the proceedings under the PP Act were initiated by the Appellant only after the Respondent filed the Writ Petition before this Court, being W.P.(C) No. 4522/2022.

13. It was submitted by learned Counsel for the Respondent that the learned Single Judge has examined the status of the various shops, whose licenses had expired and the application for renewal of the said licenses are still pending and despite the same the said shops have not been sealed or have been de-sealed after payment of the requisite license fees. Accordingly, considering the parity between the status of the other shops and the Shop of the Respondent, the Impugned Order has been passed permitting the Respondent to file fresh application for renewal of the license and pending consideration of the renewal application, the Shop was directed to be de-sealed. Accordingly, it was submitted by the learned Counsel for the Respondent there is no infirmity with the Impugned Order.



14. We have heard the learned Counsel for the Appellant as well as the learned Counsel for the Respondent.

15. *Vide* order dated 15.02.2023 passed in W.P.(C) No. 4522/2022 filed by the Respondent seeking de-sealing of the Shop, the Respondent was given liberty to file a representation to the Appellant, and the Appellant was directed to pass a speaking order thereon after giving a personal hearing to the Respondent. The said order dated 15.02.2023 is reproduced as under:

“1. Mr. Ravi Sikri, learned Senior Counsel for the petitioners has referred to the rejoinder wherein a mention has been made that Shop No.3, Krishna Menon Marg and Shop Nos.7, 76 and 96 in Mohan Singh Place were de-sealed in similar facts and circumstances as in the present case.

2. Mr. Shaad Shervani, learned counsel for the respondent/NDMC, on instructions, submits that the petitioner’s case would be considered in light of the above facts as and when the petitioner makes a representation.

3. At this stage, Mr. Sikri, learned Senior Counsel, submits that the petitioner No.1 has expired and the Shop has been lying sealed since 19.07.2019, whereafter damages have been paid on behalf of the petitioners till November-December, 2019. He further submits that a comprehensive representation would be made by petitioner No.2 and legal heirs of petitioner No.1 thereby seeking waiver of the damages as well as renewal of license in light of the fact that Shop has been lying sealed.

4. Let the representation be filed by the petitioners within one week from today, whereafter, the MCD shall grant a personal hearing to the petitioners/their counsel before passing a speaking order within four weeks. In case, the petitioners remain aggrieved, they shall be at liberty to seek remedy in accordance with law.

5. In view of the foregoing discussion, the present petition is disposed of alongwith pending application.”



16. A perusal of the above order shows that the Respondent had made reference to Shop Nos. 7, 76 and 96 situated at Mohan Singh Place Market, had submitted that the same were de-sealed in similar facts and circumstances. Further, the statement made on instructions by the learned Counsel for the Appellant is also recorded that the Respondent's case would be considered in light of the said facts as and when a representation is made.

17. However, when the representation was made, the Appellant failed to comply with the direction as contained in order dated 15.02.2023 and did not pass the reasoned order within the stipulated time. It is only when the Respondent filed the Contempt Petition, the Appellant passed the order dated 04.04.2024 just few days before the hearing of the Contempt Petition, which was scheduled on 08.04.2024.

18. When the Contempt Petition was taken up for hearing on 08.04.2024, the Appellant informed about passing of the order dated 04.04.2024 and in view of the same, the Contempt Petition was disposed of while observing that the order dated 04.04.2024 passed by the Appellant has not dealt with the aspect with respect to the circumstances in which the other shops were de-sealed. Therefore, the Respondent was given a liberty to challenge the order dated 04.04.2024 passed by the Appellant.

19. Accordingly, the Respondent challenged the order dated 04.04.2024 by way of the Writ Petition. The learned Single Judge *vide* the Impugned Order has considered the submissions made on behalf of the Parties and observed that the other shops, which were similarly situated as the Shop of the Respondent, were treated differently by the Appellant in the similar facts and circumstances. After considering the status of other shops, the learned Single Judge was of the view that in parity with the status of other shops,



where their case for renewal of license has been considered by the Appellant and pending consideration the shops have been de-sealed and the shopkeepers have been allowed to operate from the said shops and accordingly, the Respondent should also be accorded similar consideration.

20. Although, the Appellant contended that the other shops were not similarly situated due to distinct factual differences from the Respondent's Shop, the order dated 04.04.2024 issued pursuant to this Court's order dated 15.02.2023 does not address this issue. *Firstly*, the Appellant delayed issuing the order dated 04.04.2024 despite explicit direction to do so within four weeks from the order dated 15.02.2023 and *secondly*, the order dated 04.04.2024 was not in consonance with the direction contained in the order dated 15.02.2023, as the Respondent's representation for license renewal was not considered in relation to the facts concerning similarly situated shops, despite the statement made on instructions on behalf of the Appellant and recorded in the order dated 15.02.2023 passed by this Court in W.P.(C) No. 4522/2022.

21. Evidently, the Appellant did not comply with the directions issued by this Court in its order dated 15.02.2023, as the representation of the Respondent was not considered in relation to the submissions regarding discrimination and parity with other similarly situated shops, as asserted by the Respondent. Should the Appellant's position be that the circumstances of other shops differed in terms of facts, there was no impediment to addressing such distinctions in the order dated 04.04.2024 issued by the Appellant.

22. The learned Single Judge has clearly found that in the other similarly situated cases, the Appellant had adopted a different approach as compared



to the Shop of the Respondent and despite giving opportunity to consider the case of the Respondent and that ground, the Appellant failed to do so in the order dated 04.04.2024.

23. Consequently, the order dated 04.04.2024 was liable to be set aside on this ground alone. Accordingly, the learned Single Judge has in the Impugned Order granted liberty to the Respondent to file a fresh application for renewal of the license of the Shop and directed de-sealing of the Shop during the pendency of the renewal application provided the Respondent complies with the directions as issued by the Appellant from time to time, including, depositing the requisite amount towards the license fee and other arrears. The Clarification Order further clarifies that the arrears as mentioned in the Impugned Order would also include any future arrears / dues that may fall due after the de-sealing of the Shop.

24. We find no error in either the Impugned Order or the Clarificatory Order, as both effectively balance the rights of the Parties. The learned Single Judge has directed the Appellant to consider the Renewal Application for the Shop's license, ensuring parity with other shops, since this aspect was overlooked when issuing the order dated 04.04.2024, despite specific instructions from this Court in its order dated 15.02.2023. Accordingly, the Appellant must consider the fresh application for renewal of the license of the Shop after taking into account the observations by this Court both the order dated 15.02.2023 and the Impugned Order and the Respondent is obliged to pay all required license fees and outstanding arrears, including any future amounts due after the Shop is de-sealed.

25. In view of the above analysis, we are of the considered opinion that no ground for interference with the Impugned Order as well as the



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Clarification Order is made out by the Appellant. Accordingly, the present Appeal is dismissed. All pending Applications stand disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

APRIL 20, 2026

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