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

+ W.P.(C) 8687/2022

DEPUTY COMMISSIONER EXCISE

..... Petitioner

Through: Mr. Abhinav Sharma and Ms. Swati
Bansal, Advs.

versus

M/S 2 BANDITS RESTAURANT

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

ORDER

31.05.2022

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CM APPL. 26200/2022 (for exemption)

Allowed, subject to all just exceptions.

The application shall stand disposed of.

W.P.(C) 8687/2022 and CM APPL. 26199/2022 (Stay)

This petition preferred by the Department of Excise challenges the order of 28 June 2019 passed by the Financial Commissioner. The order impugned restores the excise license which was granted to the respondent setting aside the order of 18 January 2018 in terms of which the same had been cancelled.

Learned counsel appearing for the petitioner Department submits that Section 16 of the Delhi Excise Act, 2009 [the Act] confers ample power on the competent authority to cancel a license granted for any reason whatsoever.

The Court finds itself unable to countenance that submission since undisputedly the Department acting as a public authority is obliged to act fairly and surely not whimsically. The expression “for any reason whatsoever” cannot be recognised as empowering the respondent to cancel a license on grounds which are not contemplated under the Act. The provisions of Section 16 cannot be viewed as granting the Department of Excise a *carte blanche* to cancel a license validly granted in terms of the provisions of the Act and Rules framed thereunder on a ground which may not be legally sustainable or not contemplated under the Act.

The Court notes that the Financial Commissioner has noted that the solitary ground on which the license was sought to be cancelled was the issue of “*public sentiment*” and an “*apprehension of disturbance of law and order*”. It becomes pertinent to note that the grant of license under the Act and Rules framed thereunder is not subject to “*public sentiment*”. The apprehension of a law and order situation is clearly a different issue altogether and which must necessarily be looked into by the concerned police authorities. Unless the license of the liquor vend is shown to fall foul of any statutory provision or otherwise established to be in violation of any rule or regulation, the same cannot possibly merit cancellation merely because “*public sentiment*” may be opposed to its location. Public opinion or sentiment is not a factor relevant or germane under the Act for locating a liquor vend. While the Court is aware that principles of *res extra commercium* apply to trade in liquor, that would not justify the cancellation of a license validly granted and which is not established to be in violation of the law. Accordingly and for the aforesaid reasons, the challenge to the impugned order fails.

The present writ petition along with pending application stands dismissed.

YASHWANT VARMA, J.

MAY 31, 2022
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