



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

Date of decision: 29<sup>th</sup> JULY, 2022

IN THE MATTER OF:

+ **LPA 444/2022&CM APPLs. 32186/2022, 32187/2022**

M/S KONNECT HOSPITALITY ..... Appellant  
Through: Mr. Varun Goswami, Mr. Varun  
Nagrath, Ms. Soniya Dodga,  
Ms. Rakshita Mehta, Advocates

versus

THE COMMISSIONER OF POLICE & ANR ..... Respondents  
Through: Mr. Santosh Kumar Tripathi,  
Standing Counsel, GNCTD with  
Mr. Arun Panwar, Advocate along  
with Inspector Vijay Shrotriya &  
Inspector Ram Naresh

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT**

**SUBRAMONIUM PRASAD, J**

1. The Appellant seeks to challenge the judgment dated 07.07.2022, passed by the learned Single Judge in W.P.(C)9574/2022, wherein the learned Single Judge had dismissed the writ petition.
2. The Appellant herein by way of the said writ petition had challenged the Show Cause Notice-cum-Order dated 07.06.2022, issued by the Joint Commissioner of Police, Licensing.



3. The Joint Commissioner of Police, Licensing, while issuing a Show Cause Notice, had directed the Appellant - M/s Konnect Hospitality, which was running a cafe & bar in the name and style of 'Uncultured' to be shut down pending adjudication of Show Cause Notice.

4. The facts, in brief, leading to the present appeal are as follows:

- i. The Appellant was running a cafe & bar in the name and style of 'Uncultured' and is located at HS-12, 2nd & 3rd Floor, Kailash Colony Market, New Delhi-110048.
- ii. It is stated that on 29.07.2020, the Certificate of Registration was issued in favour of the Appellant by the Additional Commissioner of Police, Licensing, under the Delhi Eating Housing Registration Regulation, 1980, promulgated under the Delhi Police Act, 1978, for operating its restaurant.
- iii. It is stated that an FIR, being FIR No.132/2022, dated 04.06.2022, was registered at Police Station Sabzi Mandi for offences under Section 188 IPC on the ground that the Appellant had kept the said restaurant open beyond the permissible time.
- iv. A Show Cause Notice was issued to the Appellant on 07.06.2022, whereby the Appellant was called upon to show cause as to why its registration should not be cancelled for alleged repeated acts of omission and commission, within 15 days from the date of receipt of the said Show Cause Notice and the Registration Certificate of the Appellant was suspended till the outcome of the Show Cause Notice. The Appellant was directed to cease operations of the said restaurant.



- v. The Show Cause Notice mentions that the Appellant is involved in nine cases and *kalandaras* by report dated 24.05.2022, 06.06.2022, 16.01.2019, 18.04.2019.
- vi. The Registration Certificate of the Appellant was suspended till the final outcome of the Show Cause Notice. The said notice dated 07.06.2022 was challenged before the learned Single Judge in W.P.(C) 9574/2022.
- vii. The Show Cause Notice indicates that despite several cases being registered against the Appellant and opportunity being given to the Appellant to mend its ways, the Appellant continued to violate the Regulations as well as the terms and conditions of the Registration Certificate repeatedly, which showcases the indifferent attitude of the Appellant.
- viii. Pending writ petition, the Joint Commissioner of Police, Licensing, revoked the license of the Appellant *vide* order dated 23.06.2022, and the said order has not been challenged by the Appellant.
- ix. The learned Single Judge by the judgment impugned in the present appeal relied on the decisions of the Apex Court and held that interference by the Court while exercising its jurisdiction under Article 226/227 of the Constitution of India at the Show Cause Notice stage should be rare and should not interfere in a routine manner. The learned Single Judge held that parties should approach the High Court after being satisfied that no remedy remains with them except approaching the constitutional courts and the said writ petition was dismissed. The said order is under challenge in the present appeal.



5. Heard the learned Counsels for the Parties and perused the material on record.

6. Mr. Varun Goswami, learned counsel for the Appellant, vehemently contends that the Show Cause Notice issued to the Appellant was without any jurisdiction. He states that there is no power conferred on the Joint Commissioner of Police, Licensing, to suspend the license pending show cause notice under the Delhi Eating Houses Registration Regulations, 1980. He states that an order passed for suspension of the Registration Certificate, pending show cause notice, would be bad in law in absence of any jurisdiction to pass such an order. He further states that it amounts to pre-judging the entire issue.

7. Learned Counsel for the Appellant places reliance on a judgment of the Apex Court in Oryx Fisheries Private Limited v. Union of India &Ors., (2010) 13 SCC 427, to contend that the person who has been issued the show cause notice must get an impression that he will get an effective opportunity to rebut the allegations contained in the Show Cause Notice to prove his innocence. Learned Counsel for the Appellant also relies on the judgment of the Apex Court in Aslam Mohammad Merchant v. Competent Authority &Ors., (2008) 14 SCC 186. He further submits that a reasonable reading of the Show Cause Notice would show that a person of ordinary prudence gets the feeling that his reply to the show cause notice would be an empty formality as the authorities have already pre-judged the issue. He states that such a Show Cause Notice does not commence a fair procedure especially when the same is before a quasi-judicial authority under a statute which promises to give the person, who is proceeded against, a reasonable opportunity of defence.



8. This Court has perused the Show Cause Notice carefully. Relevant portion of the show cause notice reads as under:-

*"You, Sh. Mukul Khurana S/O Sh. Subhash Khurana r/o F-28, Eye Hospital, Near Rampul, Lajpat Nagar-2, New Delhi-110024, were issued a Registration Certificate No.ETHL/DCPLic/2017/209, valid upto 31.03.2021 for operating an Eating House in the name and style of M/s. Uncultured (A Unit of Konnect Hospitality), situated at HS-12, 2nd and 3rd Floor, Kailash Colony Market, Delhi-110048, under the provisions of "Delhi Eating Houses Registration Regulations 1980" for operating an Eating House, subject to adherence to the terms and conditions as laid down in the Registration Certificate.*

*Whereas, DCP/South has reported involvement in following cases and kalandaras vide report dated 24.05.2022, 06.06.2022, 16.01.2019 and 18.04.2019:*

S.No.	DD NO./FIR	DATE	SECTION	ACT
1.	DD NO. 21A	07.07.2018	4/21	COPTA ACT
2.	DD NO.32A	17.04.2019	4/21	COPTA ACT
3.	DD NO.3A	06.07.2019	28/112	D.P. ACT
4.	DD NO. 52A	16.12.2020	7	COPTA ACT
5.	FIR NO.418/20	27.12.2020	188/269 4/7	IPC COPTA ACT
6.	FIR NO.02/2021	01.01.2021	188/269	IPC
7.	FIR NO.231/2021	26.07.2021	188/269/270 3 4/21	IPC EXCISE ACT COPTA ACT
8.	FIR NO.336/2021	25.12.2021	188/269/	IPC



			270	
9.	FIR NO.132/2022	04.06.2022	188	IPC

*Whereas, in the past SCN No.12110-11 dated 15.03.2019 and Order suspending operation of the subject eating house for 15 days vide No.26077-86, dated 20.05.2019 had been issued to you for reported violations.*

*Whereas, vide report dated 24.05.2022 and 06.06.2022 DCP/South District has again informed regarding involvement in 7 other cases and kalandaras as mentioned in the table above against your eating house. In the light of your previous background, the local police has not recommended your case for renewal of Registration Certificate.*

*Whereas, from the above it is clear that you have not learnt any lesson from your previous omissions and the opportunity given to you to mend your ways and repeatedly violated the Regulations and the terms and conditions of the Registration Certificate one after other. Registration of these cases also demonstrates your indifferent attitude towards the lawful directions.*

*Whereas, in view of above facts, it is evident that the premises of your eating house is not a suitable place to run an eating house as required under "Delhi Eating Houses Registration Regulations 1980".*

*THEREFORE, I, Dr. O.P. Mishra, Joint Commissioner of Police, Licensing, Delhi in exercise of power conferred upon under signed under the provisions of "Delhi Eating Houses Registration Regulations, 1980" do hereby call upon you to Show Cause within 15 days from the date of receipt of this notice, as to why your Registration Certificate should not be cancelled for the above repeated acts of omission & commission. Your reply, if any, should reach this office within 15 days, failing which it will be presumed that you have nothing to say in your defence and the decision will be taken ex-parte, on merits. In the meanwhile your Registration Certificate No.ETHL/DCPLic/2017/209 is hereby suspended till the*



*outcome of this Show Cause. You are hereby directed to cease operation of the Eating House Immediately."*

9. A perusal of the abovementioned Show Cause Notice does not give an impression that the authorities have pre-judged the issue. The Show Cause Notice only enumerates the number of cases in which the Appellant is involved and that the Appellant has not learnt any lesson from the said cases.

10. The judgments relied on by the learned counsel for the Appellant are not applicable to the facts of the present case. The facts, as it emerges from the material on record, indicates that the Appellant had not filed reply to the Show Cause Notice but filed a Writ Petition before the learned Single Judge. The material on record also indicates that the Joint Commissioner of Police, Licensing, by Order dated 26.03.2022 has revoked the license issued to the Appellant only after hearing the Appellant.

11. It is well settled that the Courts while entertaining the Writ Petitions under Article 226/227 of the Constitution of India against Show Cause Notice must be very slow to interfere. The Apex Court in a catena of judgments has held that the High Court should interfere only when Show Cause Notice is issued either without jurisdiction or are abuse of the process of law [Refer: Union of India &Ors. v. Coastal Container Transporters Association &Ors., (Civil Appeal No. 2776 of 2019), The Commissioner of Customs, Kochi and Ors. v. Covai Raja Metals (India) Pvt. Ltd., (SLP (C) No. 27745/2014) and Union of India v. Vicco Laboratories, (2007) 13 SCC 270].

12. The contention of the Appellant that the Delhi Eating Houses Registration Regulations, 1980 does not have the power to suspend the



licence, and, therefore, the Show Cause Notice is without jurisdiction and is unsustainable in law, does not hold any water. The Delhi Eating Houses Registration Regulations, 1980 have been brought out with the previous sanction of the Administrator of Delhi, and in exercise of powers conferred under Clauses (Za) and (Xb) of sub-section 1 of Section 28, read with sub-sections(2) and (3) of Section 38 of the Delhi Police Act, 1978. Section 141(2) of the Delhi Police Act gives power to the licensing authority to suspend the licenses. Section 141 of the Delhi Police Act, 1978 reads as under:-

***"141. Licences and written permissions to specify conditions, etc., and to be signed.***

*(1) Any licence or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the competent authority.*

*(2) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority if any of its conditions or restrictions are infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence with respect to any matter to which such licence or permission relates.*

*(3) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the persons to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.*





*(4) Every person to whom any such licence or written permission has been granted shall, while the same remains in force, at all reasonable times, produce the same, if so required by a police officer.*

*Explanation.—For the purposes of this section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of the person to whom the licence or written permission has been granted shall be deemed to be infringement or evasion or, as the case may be, conviction of, the person to whom such licence or written permission has been granted."*

13. A perusal of the above shows that the licensing authority has the power under the Act to suspend the licence if any of the conditions or restrictions of the licence are infringed. The submission of the Appellant regarding the power of the licensing authority to suspend the license cannot be accepted.

14. It cannot be said that the instant case is one of lack of jurisdiction on the part of the licensing authority to suspend the license pending show cause notice or that the principles of natural justice have been violated. The licensing authority has the jurisdiction under the Delhi Police Act, read with Delhi Eating Houses Registration Regulations, 1980, to issue Show Cause Notice. There have been repeated violations by the Appellant, and, therefore, the licensing authority was well within its right to issue the impugned Show Cause Notice to the Appellant and suspend the license pending the Show Cause Notice.

15. This Court is not delving further on the merits of the case lest it would affect the rights of the Appellant if he intends to challenge the order dated



23.06.2022 before the competent authority under law. However, this Court is of the firm opinion that the impugned Order dated 07.07.2022 passed by the learned Single Judge does not require any interference.

16. The appeal is dismissed with the above observations. Pending application(s), if any, stand disposed of.

**SATISH CHANDRA SHARMA, C.J.**

**SUBRAMONIUM PRASAD, J**

**JULY 29, 2022**

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