

(2018) 09 J&K CK 0092

In the Jammu And Kashmir High Court

Case No : Other Writ Petition No. 1978 Of 2018

Friends Bar & Restaurant @APPELLANT@Hash State Of Jammu & Kashmir And Ors

Date of Decision : 28-09-2018

Acts Referred:

Citation : (2018) 09 J&K CK 0092

Hon'ble Judges : Sanjay Kumar Gupta, J

Bench : Single Bench

Advocate : Ankur Sharma

Final Decision : Disposed Off

Judgement

Brief case of the petitioner is that the petitioner owns establishment in respect of bar and restaurant for consumption of liquor which have been established by its respective proprietor after getting necessary licences under the Excise act and Rules frames thereunder. Establishment, which are located within "Local Authority" at National Highway Ban, Tehsil Hiranagar, District. Kathua.

Respondent No. 2 vide Order dated 27.01.2018 & 08.08.2017, changed the respective premises which were earlier used by the petitioner for running his respective Bar 81, Restaurant by shifting the same from its original location at National Highway Ban, Tehsil Hiranagar, District Kathua to new locations (proposed. premises). It is further submitted that the petitioner is regularly approaching the respondent no. 2 and requesting him to pass appropriate orders permitting them to run their Bar 85 "Restaurant at earlier /previous original locations, keeping in view the judgment/ orders passed by the Hon'ble Supreme Court of India as also in view of the legal opinion given by the Government in the Law, Justice and Parliamentary Department, but no action has been taken by the State respondents.

Counsel for the petitioner prays that the writ petition be considered on the ground raised in para 12 of the writ petition which reads as under:

"12. That the petitioner has already approached the respondents by way of a

representation highlighting the issue of shifting of his establishment (Bar and Restaurant) to the original location at National Highway Ban, which is situated within the "local authority" as per the directions the Hon'ble Supreme Court of India in SLP (Civil) No. 10243/ 2017 read with directions passed in civil Appeal No. 12 164-12 166 / 2016 and in view of the opinion/decision dated 06.12.2017 which has been given by the Government in the Law, Justice and Parliamentary Affairs Department, civil Secretariat, Jammu. However, the genuine cause projected in the said representation was neither considered nor any order in this behalf has been issued so far."

The petitioner has prayed for following reliefs:

1.Mandamus: Directing and commanding the respondents to allow the petitioner to run his Bar 85 Restaurant i.e Friends Bar and Restaurant to its original location i.e Village Ban, National Highway, Tehsil: Hiranagar, District: Kathua, without any hindrance or obstruction which is located within the municipal limits in terms of the directions of the Hon'ble Supreme Court of India in SLP (Civil) No: 10243/2017 titled: Arrive Safe Society of Chandigarh V. Union Territory of Chandigarh and Anr. read with direction passed in civil appeal No: 12164-12166/2016 titled: The State Of Tamil Nadu and Others vs. K. Balu 85 Anr....

Heard and considered.

Mr. K. D. S. Kotwal, Government Advocate has put in appearance on behalf of the respondents.

During the course of arguments counsel for the petitioner submitted that he will be satisfied in case the respondents are directed to consider the representation filed by the petitioner which is pending consideration before the respondents and pass some speaking order within the stipulated time to which counsel for the respondents offered No objection.

In view of the above, the instant petition is disposed of directing the respondents/ concerned authority to consider the representation filed by the petitioner with respect to his grievance under the rules governing the field and pass a speaking order immediately within a period of four weeks after the date copy of this order is made available to them. The appropriate order so passed shall be conveyed to the petitioner as well.

It is hereby directed that till such consideration order is passed by the concerned department, the State- respondents shall maintain the status quo on spot as it exists on today.

Disposed of as above.