

(2019) 07 DEL CK 0083

In the Delhi High Court

Case No : Civil Writ Petition No. 1353 Of 2019, Civil Miscellaneous No. 6174, 12222 Of 2019

Sanjay Dewan

APPELLANT

Vs

Licensing Authority And Anr

RESPONDENT

Date of Decision : 08-07-2019

Acts Referred:

Drugs And Cosmetics Rules, 1945 — Rule 63A, 64, 64(1), 64(3), 65A, 67A
Public Premises (Eviction Of Unauthorized Occupants) Act, 1971 — Section 5A(2)
Drugs and Cosmetics Act, 1940 — Section 6(2), 12, 33, 33N, 33N(e), 33(2)(e)
Kerala Land Reform Act, 1963 — Section 7

Citation : (2019) 263 DLT 77 : (2019) 176 DRJ 703

Hon'ble Judges : Vibhu Bakhru, J

Bench : Single Bench

Advocate : Anuroop P.S., Ramesh Singh, Prabhsahay Kaur, Ishan Agrawal, Shruti Gala

Final Decision : Allowed

Judgement

Vibhu Bakhru, J

1. The petitioner has filed the present petition, inter alia, impugning the order dated 16.01.2019 (hereafter "the impugned order") passed by the Appellate Authority (Hon'ble Lt Governor of Delhi), whereby the petitioner's appeal captioned "Sanjay Dewan v. Licensing Authority"

(Appeal No. 43/2018) preferred against the order dated 23.05.2018 passed by respondent no.1 (Licensing Authority, Drug Control Department), under

Rule 64 (3) of the Drugs and Cosmetics Rules, 1945 (hereafter "the Rules"), was rejected and the said order was upheld. By the said order dated

23.05.2018, respondent no. 1 had refused to renew the license for retail sale of medicines issued in favour of the petitioner on the ground that the

petitioner had failed to establish, by documentary evidence, his right to occupy the premises specified in the application for renewal of license.

2. The petitioner contends that the impugned order has been passed with mala fide intentions on part of the respondents in collusion with the officials

of Lok Nayak Jai Prakash (LNJP) Hospital. The respondents state that the license of the petitioner has been cancelled since the petitioner has failed

to submit any document supporting legal ownership of the premises occupied by it in favour of Swami Haider Das Ashram and has failed to establish

the threshold for documentary evidence in respect of its ownership of occupation or rental of the premises, as required under Rule 65-A and Rule 64

of the Rules.

Factual Background

3. The petitioner carries on the business of running a medical store under the name and style of "Sanjay Medicos" from a shop located at Swami

Haider Das Ashram, Opposite G.B. Pant Hospital, Delhi-02.

4. The petitioner had applied for and was granted a license dated 05.01.2000 bearing no. 28(282) issued under Form 21-C (under Rule 63-A of the

Rules) for the retail sale of medicines. The said license was renewed with effect from 01.01.2012 to 31.12.2016. The petitioner had also applied for a

license for the sale of Homeopathic medicines at the said shop and was issued a license under Form 20-E (under Rule 67-A of the Rules). The said

licence was also renewed with effect from 01.01.2012 to 31.12.2016.

5. Allegedly, Swami Baba Haider Ashram is situated inside the premises of LNJP Hospital. It is alleged that a part of the land allotted to LNJP

Hospital was encroached upon by a few persons about 10 to 15 years ago. They had established an Ashram on the said land known as Baba Haider

Das Ashram. Thereafter, four pucca shops had been constructed by the said Ashram and it had started commercial activities by renting out those

shops.

6. On 23rd October 2000, the Director (LNJP) Hospital made a reference to the Estate Office (Central District) making the allegations as aforesaid.

It was also stated in the said reference that Shop No.1 was occupied by the petitioner, proprietor of Sanjay Medicos; Shop No.2 was a tea shop

named "Sudh Vaishno Chai Nashte Ke Dukan" run by its proprietor Sh Bharat Singh; Shop No. 3 was a STD & Confectionary shop run by its

proprietor, Sh Shiv Kumar; and Shop No. 4 was a tailoring shop â?" â??Om Nursing Tailorâ??â?" run by its proprietor, Master Kishan Chand.

7. On the basis of the said reference, separate notices under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 were issued to all

occupants of the shops situated within Swami Baba Haider Ashram (which included the shop belonging to the petitioner).

8. After hearing the parties, the Estate Officer had passed an order dated 21.12.2000 holding that all the occupants of the four shops are unauthorized occupants of the said four pucca shops.

9. The petitioner along with the occupants challenged the order dated 21.12.2000 by filing a writ petition being W.P.(C) 1567 of 2001 before this

Court. By a judgement dated 30.01.2003, a co-ordinate bench of this Court allowed the petition and set aside the order dated 21.12.2000. This Court

held that the proceedings against the petitioners (the occupiers of the four shops in question including the petitioner) could not be issued under Section

5A(2) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 without serving notice to the said Baba Haider Das Ashram, as it was

the stated case of the Director (Admn.) LNJP Hospital that the said Ashram had constructed the said shops and let them out to various persons.

Although, this court set aside the order passed by the Estate Officer, the Court also clarified that it was open to the respondents therein to take fresh

action after following due procedure in law.

10. Concededly, LNJP Hospital has taken no steps for evicting or removing Baba Haider Das Ashram from the premises constructed by them.

11. On 17.07.2014, respondent no.1 issued a Memorandum calling upon the petitioner to show cause as to why the license issued to the petitioner

should not be cancelled. The petitioner was also called upon to furnish the documents under Rule 65A of the Rules, in respect of ownership or

occupation on rental and other basis of the premises from LNJP Hospital/ Maulana Azad Medical College (MAMC). It was stated in the

Memorandum that the premises of the petitioner are situated on land belonging to LNJP Hospital and the same were unauthorizedly constructed on

Swami Haider Das Ashram.

12. The petitioner responded to the Memorandum by a letter dated 24.07.2014 claiming that he was a lawful tenant of Swami Haider Das Ashram and

was in settled possession of the shop in question since the past twenty five years.

13. Thereafter, the petitioner received a letter from respondent no.1 calling upon the petitioner to appear before the concerned authority on

08.08.2014. The petitioner states that since he was out of station due to bereavement in his family, the petitioner was unable to make a representation

in person on the said date. The matter was taken up by respondent no.1 on 12.08.2014 and thereafter, the said matter was reserved for order.

14. On 12.09.2014 an order was passed by respondent no.1 whereby the license of the petitioner was cancelled on the ground that the occupancy of

the premises of the petitioner was not in consonance with Rule 65-A of the Rules. The Licensing Authority was of the opinion that the petitioner was

not granted any legal status of occupancy in the said premises. Further, the petitioner failed to submit a No Objection Certificate (NOC) from the land

owning agency i.e. LNJP Hospital or any documents in respect of ownership or occupation on rental and other basis of the premises of the firm from

LNJP Hospital, on whose land the premises in question was situated. The rent receipts and the NOC submitted by the firm from Baba Haider Das

Ashram were not considered to be sufficient/ acceptable as proof of ownership or occupation, as the said Ashram was itself not a legal owner of the

land where it was situated.

15. The petitioner filed an appeal (Case No. 182/2014) against the order dated 12.09.2014 before the Court of Lt. Governor, which was dismissed vide

order dated 15.10.2014.

16. Thereafter, the petitioner preferred a writ petition being W.P. (C) No. 7195 of 2015 before this Court challenging the aforesaid order. On

17.10.2014, this court passed an interim order stating that no coercive steps shall be taken by the respondents during the pendency of the present

proceedings.

17. During the pendency of the writ petition, the said license granted to the petitioner expired on 31.12.2016. The petitioner filed an application for the

renewal of the said license which was pending before respondent no.1. This Court vide order dated 01.08.2017 directed the respondents to dispose of

the application for renewal of license, uninfluenced by the pendency of the present proceedings.

18. On 26.02.2018, respondent no.1 declined the application of the petitioner for

renewal of license and the said order was brought on record. This

Court, taking into account the order dated 26.02.2018 disposed of the writ petition (W.P. (C) 7195 of 2014) with the liberty to the petitioner to assail

the order dated 26.02.2018 and extended the interim order dated 17.10.2014 for a further period of two weeks to enable the petitioner to take recourse

to an appropriate remedy.

19. The petitioner filed an appeal (Appeal No. 14/2018) against the order dated 26.02.2018. The Lt Governor on 14.03.2018, set aside the order dated

26.02.2018 and remanded the matter back to the Licensing Authority to consider all aspects of the matter and pass a fresh speaking order.

20. On 23.05.2018 the Licensing Authority passed an order rejecting the request for renewal of license. The petitioner filed an appeal (Appeal No.

43/2018) against the order dated 23.05.2018 before the Lt. Governor. Since the matter was not taken up before the Lt. Governor, the petitioner also

filed a writ petition captioned Sanjay Dewan v. Licensing Authority, Drug Control Department & Anr: W.P. 6589 of 2018, for the stay of the order

dated 23.05.2018.

21. On 10.07.2018, this Court disposed of the writ petition with the liberty to the petitioner to pursue his appeal. The Court further clarified that till

disposal of the said appeal, no coercive action was to be taken by the respondents during the pendency of the appeal.

22. On 16.01.2019, the Lt. Governor passed the impugned order dismissing the appeal of the petitioner and upholding the rejection of the application of

the petitioner. This led the petitioner to file the present petition.

23. It is apparent from the above that the principal question to be addressed is whether the petitioner's application for renewal of license could be

rejected on the ground that the right of the petitioner's landlord, Swami Haider Das Ashram, to occupy the land in question is disputed.

Submissions

24. Mr Ramesh Singh, learned counsel appearing for the respondents had contended that notwithstanding the inaction on part of LNJP Hospital to

remove Swami Haider Das Ashram from its premises, the licensing authority was well within its rights to independently examine the ownership of the

premises in question before renewing their license in respect of the said premises.

25. He referred to the decision of the Supreme Court in *Sheshank Sea Foods Pvt. Ltd. v. Union of India &Ors.*: (1996) 11 SCC 75 in support of his

contention that the licensing authority had an independent statutory right to examine the ownership of the premises in question. He also relied upon the

decision of the Supreme Court in *Padanathil Ruqmini Amma v. P.K. Abdulla*: (1996) 7 SCC 668 in support of his contention that the lessee would

have no right or title in the property leased to him if the lessor has no right or title in the said property.

26. Next, Mr Ramesh Singh submitted that in terms of Rule 64 of the Rules, the Licensing Authority was empowered to examine the legal right of the

petitioner to occupy the premises in respect of which the licenses were sought. He also submitted that in terms of Rule 65A of the Rules, the

Licensing Authority is also entitled to call for documentary evidence in respect of the ownership or occupation or rental or other basis of the premises.

He submitted that the word 'or' as used in Rule 65A ought to be read as 'and'. He contended that this was obvious because without

furnishing any documentary evidence as to the ownership of the premises of lessee of the said premises, the petitioner could not establish any right in

his favour.

Reasoning and Conclusion

27. At the outset, it is relevant to observe that the Rules have been framed in exercise of powers conferred under Section 6(2), Section 12, Section 33

and Section 33N of the Drugs and Cosmetics Act, 1940 (hereafter 'the Act'). Section 6(2) of the Act empowers the Central Government to

make Rules prescribing the functions of the Central Drugs Laboratory and other matters relating to functioning of the said laboratory. Section 12 of

the Act empowers the Central Government to make Rules to give effect to the provisions of Chapter III of the Act which relates to import of drugs

and cosmetics. Section 33 of the Act empowers the Central Government to make Rules to give effect to the provisions of Chapter IV of the Act

which relates to the manufacture, sale and distribution of the drugs and cosmetics. Section 33N of the Act empowers the Central Government to

make Rules for the purposes of giving effect to Chapter IVA of the Act which contains provisions relating to Ayurvedic, Siddha and Unani Drugs.

28. In terms of Section 33(2)(e) of the Act, the Rules made by the Central

Government may specifically prescribe the conditions subject to which such licenses may be issued. Section 33(2)(e) of the Act is set out below:-

33(2)(e) prescribe the forms of licences for the manufacture for sale or for distribution, for the sale and for the distribution of drugs or any

specified drug or class of drugs or of cosmetics or any specified cosmetic or class of cosmetics, the form of application for such licences, the

conditions subject to which such licences may be issued, the authority empowered to issue the same the qualification of such authority and the fees

payable therefor; and provide for the cancellation or suspension of such licences in any case where any provision of this Chapter or the rules made

thereunder is contravened or any of the conditions subject to which they are issued is not complied with;

29. Section 33N(e) of the Act contains a similar provision in respect of Rules made to give effect to the provisions of Chapter IVA of the Act.

30. Rule 64 of the Rules prescribes for the conditions to be specified before a license to sell, stock, exhibit or distribute drugs is granted. Rule 64 of the

Rules, as applicable prior to 27.10.2017 reads as under:-

64. Conditions to be satisfied before a licence in [Form 20, 20-B, 20-F, 20-G, 21 or

21-B is granted [or renewed]. - (1) A licence in [Form 20, 20-B, 20-F, 20-G, 21 or

21-B to sell, stock, exhibit or offer for sale or distribute] drugs shall not be granted [or renewed] to any person unless the authority empowered to

grant the licence is satisfied that the premises in respect of which the licence is to be granted [or renewed] are adequate, equipped with proper storage

accommodation for preserving the properties of the drugs to which the licence applies and are in charge of a person competent in the opinion of the

licensing authority to supervise and control the sale, distribution and preservation of drugs:

Provided that in the case of a pharmacy a licence in Form 20 or 21 shall not be granted [or renewed] unless the licensing authority is satisfied that the

requirements prescribed for a pharmacy in Schedule N have been complied with:

Provided further that licence in Form 20-F shall be granted [or renewed] only to a pharmacy and in areas where a pharmacy is not operating, such

licence may be granted [or renewed] to a chemist and druggist.

Explanation. - For the purpose of this rule the term "pharmacy" shall be held to mean and include every store or shop or other place- (1) Where

drugs are dispensed, that is, measured or weighed or made up and supplied; or

(2) where prescriptions are compounded; or (3) where drugs are prepared; or (4) which has upon it or displayed within it, or affixed to or used in

connection with it, a sign bearing the word or words "Pharmacy", "Pharmacist", "Dispensing Chemist", or "Pharmaceutical

Chemist"; or

(5) which, by sign, symbol or indication within it or upon it gives the impression that the operations mentioned at (1), (2) and (3) are carried out in the

premises; or (6) which is advertised in terms referred to in (4) above.

(2) In granting [or renewing] a licence under sub-rule (1) the authority empowered to grant it shall have regard-

(i) to the average number of licences granted [or renewed] during the period of 3 years immediately preceding, and]

(ii) to the occupation, trade or business ordinarily carried on by such applicant during the period aforesaid :

Provided that the licensing authority may refuse to grant or renew a licence to any applicant or licensee in respect of whom it is satisfied that by

reason of his conviction of an offence under the Act or these rules, or the previous cancellation or suspension of any licence granted [or renewed]

thereunder, he is not a fit person to whom a licence should be granted [or renewed] under this rule. Every such order shall be communicated to the

licensee as soon as possible:

[Provided further that in respect of an application for the grant of a licence in Form 20-B or Form 21-B or both, the licensing authority shall satisfy

himself that the premises in respect of which a wholesale licence is to be granted [or renewed] are-

(i) of an area of not less than ten square metres; and

(ii) in the charge of a competent person, who; (a) is a Registered Pharmacist, or; (b) has passed the Matriculation Examination or its equivalent

examination from a recognised Board with four years experience in dealing with sale of drugs or; (c) holds a degree of a recognised University with

one year's experience in dealing with drugs.

Provided also that, -

(i) in respect of an application for the grant of a licence in Form 20 or Form 21 or both, the licensing authority shall satisfy itself that the premises are

of an area of not less than 10 square meters, and

(ii) in respect of an application for the grant of licence- (a) In Form 20 or Form 21 or both, and

(b) In Form 20-B or Form 21-B or both, the licensing authority shall satisfy itself that the premises are of an area not less than 15 square meters :

Provided also that the provisions of the preceding proviso shall not apply to the premises for which licences have been issued by the licensing authority

before the commencement of the Drugs and Cosmetics (1st Amendment) Rules, 1997.

(3) Any person who is aggrieved by the order passed by the licensing authority in sub-rule (1) may, within 30 days from the date of the receipt of such

order, appeal to the State Government and the State Government may, after such enquiry into the matter as it considers necessary and after giving the

appellant an opportunity for representing his views in the matter, make such order in relation thereto as it thinks fit.

31. It is clear from the plain reading of Sub-rule (1) of Rule 64 of the Rules that the license granting authority is required to be satisfied that the

premises in respect of which the license is to be granted are adequate, equipped for proper storage accommodation for preserving the properties of

the drugs to which the license applies and the premises are in charge of a person competent in the opinion of the licensing authority to supervise and

control the sale, distribution and preservation of drugs. Thus, the person seeking license would require to establish that the premises in respect of

which license is sought is in charge of a person who is competent to carry on the business.

32. Rule 65A of the Rules obliges the applicant to furnish to the Licensing Authority any documentary evidence in respect of ownership or occupation

or rental or the other basis of the premises specified in the application for license. Rule 65A of the Rules is set out below:-

65A. Additional information to be furnished by an applicant for licence or a licensee to the Licensing Authority. The applicant for the grant of a

licence or any person granted a licence under this Part shall, on demand, furnish

to the licensing authority, before the grant of the licence or during the period the licence is in force, as the case may be, documentary evidence in respect of the ownership of occupation or rental or other basis of the premises, specified in the application for licence or in the licence granted, constitution of the firm, or any other relevant matter which may be required for the purpose of verifying the correctness of the statements made by the applicant or the licensee, while applying for or after obtaining the licence, as the case may be.â??

33. It is relevant to note that Rule 65A of the Rules only pertains to the obligation of an applicant to furnish additional information. Plainly, the object of seeking additional information is to ensure that the applicant/licensee complies with the conditions of the license. Thus, the requirement for a license of an applicant/licensee to provide documentary evidence in respect of the ownership or occupation of the premises has to be read in conjunction with the conditions for issuance of such license. As noted above, the conditions as to the requirement of the premises as specified under Rule 64 of the Rules pertains to the adequacy of the requirement of the premises to be adequate and equipped with proper storage for preserving the properties of the drugs, to which the license applies. The requirement for a licensee to furnish information with regard to his right to occupy the premises is only to satisfy the licensing authority that the premises are in charge of a person who is competent to supervise and control the sale, distribution and preservation of drugs.

34. In view of the above, this Court is unable to accept that the scope of Rule 65A of the said Rules is to conduct an enquiry as to the legal ownership of the premises in question. The licensing authority is not concerned with any dispute relating to the title of the premises in question. He has to merely satisfy himself that the said premises are in charge of a competent person.

35. The decision of the Licensing Authority to deny the renewal of license to the petitioner must be considered in the light of the aforesaid scheme of the Rules. In the facts of the present case, there is no dispute that the petitioner is fully competent to supervise and control the sale, distribution and preservation of the drugs for which the license is sought.

36. The controversy only relates to the aspect whether the petitioner is in charge of the said premises. The relevant facts in this regard are not

disputed. Admittedly, the petitioner is in physical possession of Shop No. 1 since the past twenty five years. The petitioner has been carrying on the

business of sale of drugs from the said premises in the name and style of â?? Sanjay Medicosâ?? for nearly two decades. The license in question

[License No. 28(282)] was issued to the petitioner in respect of the said premises on 05.01.2000 and has been renewed from time to time, till it was cancelled on 20.09.2014.

37. It is also an admitted case that the petitioner had taken the said shop on lease from Swami Haider Das Ashram. This was a stated case of LNJP

Hospital in the reference made by the Director, LNJP Hospital to the Estate Officer on 23.10.2000. This is also recorded in the order passed by this

Court on 30.01.2003 in W.P.(C) 1567/2001. In view of the above, there is little doubt that the petitioner is in charge of the premises in question (Shop

No. 1).

38. The contention that the licensing authority has an absolute right to examine the ownership of the premises and demand documentary evidence in

that regard, is not entirely correct. Undoubtedly, the licensing authority is entitled to call for additional information including documentary evidence, in

respect of â??the ownership or occupation or rental or other basis of the premisesâ? for the purposes of verifying whether the applicant/ licensee

impose the conditions as specified and whether the information for the purpose of verifying the correctness of the statements made by the

applicant/licensee while applying for the license is correct. The contention that a tenant of premises is also required to provide documentary evidence

as to the ownership of the premises, is unpersuasive. First of all, the said requirement is not borne out from the plain language of Rule 65A of the

Rules.

39. In terms of the said Rules, an applicant is obliged to provide documentary evidence in respect of his occupation of the premises either as an owner

or on rental or on any other basis. Clearly, a tenant or a licensee of a premises is required to provide documentary evidence to establish his occupation

of the premises in question. It is relevant to note that even a licensee, who has no interest in the premises, would be entitled to apply for a license if he

is otherwise able to satisfy the licensing authority that he is in charge of the premises.

40. Plainly, the principal object requiring an applicant/licensee to provide documentary evidence of his occupation is to ensure that the license is only granted in respect of premises which are in control of licensee. This is to ensure that the business is not carried on by other persons as proxies for a licensee and license is not granted to a person in respect of a premises which is being used by another person.

41. Having stated the above, it is also necessary to observe that in some cases where it is doubtful whether the applicant is in charge of the premises,

the licensing authority can insist on sufficient documentary evidence to establish the same including to establish the legal ownership of the premises in

question. However, in the present case, there is no material dispute as to the facts. There is a serious dispute as to whether Swami Haider Das

Ashram has encroached upon the land allotted to LNJP Hospital and has been exploiting the same commercially by constructing the shops leased to

various persons including the petitioner. However, LNJP Hospital has not pursued any proceedings to evict or remove Swami Haider Das Ashram

from its land. As noticed above, proceedings to evict the petitioner and three other lessees of Swami Haider Das Ashram were instituted by LNJP

Hospital in November, 2000. However, the eviction order was set aside on 30.01.2003 on the ground that no notice was issued to Swami Haider Das

Ashram. The Court in its order had expressly clarified that it would be open for fresh proceedings to be instituted. However, LNJP Hospital has not

instituted any proceedings thereafter.

42. It does appear to this Court that the decision to deny the license to the petitioner is grounded on the desire of the concerned authorities to evict the

petitioner from the said premises for the purposes of decongesting the area. However, merely denying the license to the petitioner would only result in

the petitioner being compelled to use the leased shop for another business.

43. The reliance placed by the respondent on the decision in the case of Padanathil Ruqmini Amma (*supra*) is not apposite. In that case, certain

properties belonging to one Sh. Tarwad were sold in execution of a decree. One of the properties were purchased by the decree holder in a court

auction and the delivery was granted. The *ex parte* decree was successfully challenged by the judgment debtor and the *ex parte* decree was set aside.

Subsequently, the proceedings by way of restitution were commenced. The

restitution application was allowed and the properties, which had been purchased by the decree holder were directed to be redelivered. This included one of the properties that was leased by the decree holder to one Sh.

P.K. Abdulla. Sh. P.K. Abdulla then filed a suit claiming that he was not evicted and praying for an injunction of restraining the defendant from

interfering in possession of said the property. In this case, notwithstanding that the decree had been set aside, he had acquired rights in the property by

a valid tenancy. He claimed that he was protected under the Malabar Tenancy Act, 1929. It is in this context, the Court held that the protection could

only be extended to the persons under the Malabar Tenancy Act, 1929. The plaintiff relied upon Section 7 of the Kerala Land Reform Act, 1963

which reads as under:-

“7. Certain persons occupying land honestly believing to be tenants, to be deemed tenants.-Notwithstanding anything to the contrary contained in

Section 52 or any other provision of the Transfer of Property Act, 1882, or any other law, or in any contract, custom or usage, or in any judgement,

decree or order of court, any person in occupation at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, of the land of another

situate in Malabar shall be deemed to be a tenant if he or his predecessor-in-interest was continuously in occupation of such land honestly believing

himself to be a tenant for not less than two years within a period of twelve years immediately preceding the 11th day of April, 1967.”

44. It is in the aforesaid context that the Court held that Section 7 of the Kerala Land Reform Act, 1963 would only apply to those who are in

occupation believing themselves to be a tenant. This Court held that when a person obtains lease from a lessor whose title is divisible to his knowledge,

he cannot claim that he believed himself to be a tenant.

45. The question involved in the present petition is not whether the petitioner would be in a position to resist eviction if the petitioner’s lessor

(Swami Haider Das Ashram) is removed from the premises. The issue involved in this case is whether the petitioner has established that he is in

charge of the premises in respect of which the license is sought. The documentary evidence to be supplied by the petitioner is only to establish his occupation of the premises in question.

46. As stated above, in the present case, there is no doubt that the petitioner is

in the settled position of the premises in question. The question whether LNJP Hospital may ultimately succeed in evicting the petitioner as and when the appropriate proceedings are initiated, is a different matter.

47. In view of the above, the petition is allowed. The impugned order is set aside and respondent no.1 is directed to process the petitioner's

application for renewal of the license, subject to the petitioner satisfying all other conditions.

48. It is clarified that if LNJP Hospital is successful in obtaining any order for evicting the petitioner, the respondent would be well within its right to

cancel the license granted to the petitioner.

49. All the pending applications are disposed of.