

(2000) 05 DEL CK 0013

In the Delhi High Court

Case No : CW.No.847/99

Sudhir Pawaskar

APPELLANT

Vs

Lt. Governor of Delhi and Another

RESPONDENT

Date of Decision : 11-05-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 86 DLT 94 : (2000) 54 DRJ 172 : (2000) 4 RCR(Criminal) 682

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. Raman Duggal, for the Appellant; Mr. Sudhir K. Makkar, for the Respondent

Judgement

Manmohan Sarin, J.—The petitioner is a proprietor of Avon Guest House located at C-43, South Extension-II, New Delhi. Petitioner is aggrieved by the order dated 19.7.1997, passed by the Dy. Commissioner of Police, cancelling the license of the petitioner to run the Guest House. Petitioner had preferred an appeal against the order of Dy. Commissioner of Police before the Lt. Governor, which was also dismissed by the Lt. Governor, vide a speaking order dated 16.9.1998.

2. Learned counsel for the petitioner attempted to urge that the impugned orders dated 19.7.1997 and 16.9.1998 are not sustainable. He submits that the orders have been passed in violation of principles of natural justice. Secondly, that the orders proceed on grounds which are extraneous to those set out in the show cause notices issued to the petitioner. Learned counsel submits that the impugned orders are the result of mala fide action of the police, at the behest of his business rival, who is determined to ruin the petitioner. Lastly, learned counsel urged that the cancellation of the license in so far as it is based on the contravention of Regulation 31 of the Regulations for Keeping Places of Public Entertainment in the Union Territory of Delhi under the Delhi Police Act is not sustainable inasmuch as the said regulation contemplates a plurality of

occurrence of the offence. Not only this, it mandates knowledge of the petitioner and means read on his part. He further submits that the proceedings are vitiated on account of reliance on extraneous grounds not included in the show cause notice.

3. I have heard the counsel for the respondent in opposition, as also perused the show cause notices, replies thereto, and the impugned orders passed. The submission that the order is passed in violation of principles of natural justice is devoid of merit. The first show cause notice was issued on 13.11.1995, which was duly replied to on 21.12.1995. The ground in this notice was that the premises in question is located in a residential area and hence Guest House could not be run. A supplementary notice dated 10.5.1996 was issued wherein a specific ground of the Guest House being used for prostitution was taken. Particulars of the couple found indulging in prostitution were also mentioned. Petitioner in fact sent a detailed reply on 22.5.1996, setting out its position. A third show cause notice was also issued on 18.2.1997. In this notice, it was alleged that while license had been granted for 9 rooms and 17 beds, petitioner in contravention was found to be running 20 rooms. Reply to this notice has also been given on 17.7.1997.

4. From the foregoing, it would be seen that the petitioner had been provided more than adequate opportunities for setting up his case before the Authorities. Petitioner, in replies to the show cause notices as well as in his submission before me, has sought to urge that the petitioner has been wrongly framed for prostitution. The couple in fact used to reside in the adjoining Guest House and had booked a room in the petitioner's Guest House and the petitioner bona fide, in the normal course, had booked the room at request. Therefore, it could not be said that the petitioner had the knowledge of the room being booked by the said couple for prostitution.

5. It is not necessary for me in writ jurisdiction to go into these disputed questions, which call for appreciation of evidence. It is sufficient for me to notice that there was sufficient material before the Authorities to reach the conclusion and the conclusions which they have reached cannot, having regard to the facts and circumstances of this case, be vitiated on account of either being perverse or those which could not be reached by a reasonable person. A perusal of the orders of the Dy. Commissioner of Police as well as Lt. Governor show that they have duly considered the case set up against the petitioner as well as his defense. It is not a case of non-application of mind, as is sought to be urged by counsel for the petitioner. Moreover, as rightly observed by the Lt. Governor in the impugned order, there has been contravention of the regulations by the petitioner on different counts and it is not a case where on the basis of a solitary ground, the petitioner's license is sought to be cancelled.

In view of the foregoing discussion, I am of the view that no ground is made out for interference by this Court in the exercise of writ jurisdiction under Articles 226 and 227 of the Constitution of India.

6. The writ petition has no merit and is dismissed.