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

% **Reserved on: 13th March, 2024**
Decided on: 19th June, 2024

+ **W.P. (C) 8460-8474/2005**
BRAJ BHAN RAHUL & OTHERS

..... Petitioners

Through: Mr. Anup Kumar Das,
Ms. Aayushi Gupta and
Mr. Nairit Bansal, Advocates

V

AGRICULTURAL PRODUCE
MARKET COMMITTEE & OTHERS

..... Respondents

Through: Mr. Ajay Kumar Bhatnagar,
Advocate for R-1 & R-2

CORAM
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T

1. The present writ petitions are filed under Article 226 of the Constitution of India for issuance of directions to the respondents for quashing the orders of cancellation of licenses of the petitioners and to restore and renew the 'A' Category licenses of the petitioners issued to them under The Delhi Agricultural Produce Marketing (Regulation) Act, 1998 (hereinafter referred to as "the Act") and



Delhi Agricultural Produce Marketing (Regulation) General Rules, 2000 (hereinafter referred to as “**the Rules**”).

2. The facts of the present case as stated in the petition are that the petitioners were engaged in sale and purchase of fruits and vegetables at Subzi Mandi, Shakarpur Pushta, Shahdara, Delhi. The petitioners submitted Application Forms supported with necessary documents with the respondent no.1 for obtaining ‘A’ Category Licenses and were granted ‘A’ Category Licences for entire Trans Yamuna Market Area after making proper enquiries and verification of the facts stated in the Application Forms and the documents filed by the petitioners along with Application Forms. The licenses were granted for Subzi Mandi, Shakarpur Pushta, Shahdara, Delhi which was an approved sub yard of the respondent no.1. The petitioners were not having allotted shop/place in Fruit & Vegetable Market, Ghazipur, Delhi-110096 and as such continued to carry on sale and purchase of fruits and vegetables at Subzi Mandi, Shakarpur Pushta, Shahdara, Delhi. The petitioners had deposited market fees regularly in the office of the respondent no.1 at Shakarpur, Shahdara, Delhi. The sheds of the fruits and vegetables were demolished on



04.05.2002 and the petitioners were removed from Subzi Mandi, Shakarpur Pushta, without giving any notice to them. The respondents had assured the petitioners for providing sheds to the petitioners at the newly constructed fruit and vegetable market at Ghazipur, Shahdara, Delhi for carrying on sale and purchase of fruits and vegetables but the respondents did not allot any shed or any other place to the petitioners in Fruit and Vegetable Market, Ghazipur, Shahdara, Delhi.

2.1 The respondent no.1 after demolition of the sheds from Subzi Mandi, Shakarpur, Shahdara, Delhi issued Show Cause Notices to the petitioners regarding cancellation of licenses of the petitioners. The petitioners along with other licence holders filed Civil Writ Petitions bearing no. 4570/2002 titled as **Subhash & Others V Govt. of N.C.T. of Delhi & Others** and 1355/2003 titled as **Sonia Kapoor & Others V Govt. of N.C.T. of Delhi & Others** before this Court for allotment of alternative places at Ghazipur Fruit and Vegetable Market, Delhi which were disposed of vide order dated 05.08.2003 with directions to take necessary decision in pursuance to the show cause notices and responses received from the petitioners after due



consideration of the documents within four months. The respondent no.1 after order dated 05.08.2003, commenced a follow up action on the basis of Show Cause Notices. The petitioners submitted reply to the show causes notices wherein they denied the allegations of the show cause notices regarding obtaining of the licenses by submitting false and wrong information. The petitioners also submitted their supporting documents along with replies to the show cause notices. The Assistant Secretary of the respondent no.1 cancelled the renewal applications of the petitioners by a common Order/Letter without giving reasons and without proper scrutiny and verification of the documents submitted by the petitioners in gross violation of order dated 05.08.2003.

2.2 The petitioners filed their respective Appeals before the Vice Chairman of the respondent no.2 i.e. Delhi Agricultural Marketing Board under Section 82 of the Act. The petitioners also submitted the documents along with Appeals and also denied allegations of the respondent no.1. The Vice Chairman of the respondent no.2 did not consider the Appeals properly and did not provide any opportunity to the petitioners to present their cases and dismissed the Appeals



mainly on the ground that since the Shakarpur Pushta Mandi has been demolished, as such the appellants i.e. the petitioners have lost the grounds of holding licenses. The Vice Chairman of the respondent no.2 adopted unjustified approach while deciding the Appeals of the petitioners. The orders of the Secretary of the respondent no.1 of cancelling the applications for renewal of licences of the petitioners and the subsequent dismissal of appeals by the Vice Chairman of the respondent no.2 were unjustified, illegal and against natural justice.

2.3 The petitioners being aggrieved, challenged the orders of the Assistant Secretary of the respondent no.1 and the Vice Chairman of the respondent no.2 primarily on the grounds that the respondent no.1 granted the licenses to the petitioners under section 80 of the Act and under Rule 12 of the Rules after making proper inquiries and verification of the facts stated in the Application Forms and the documents submitted along with Application Forms. The respondent no.1 has renewed the licences of the petitioners from time to time after making necessary inquiries and fresh verification of the facts and the documents. The petitioners have deposited/paid market fees regularly with the respondent no.1 at Shakarpur, Shahdara, Delhi till



May, 2002. The petitioners at the time of demolition/removal of the sheds at Shakarpur Subzi Mandi in the May, 2002 were assured by the respondents to provide suitable places at Ghazipur Fruit and Vegetable Market to carry their business. The Vice Chairman of the respondent no.2 as Appellate Authority did not provide sufficient opportunity to the petitioners to represent their Appeals and rejected the Appeal on irrelevant ground of removal of sheds at Shakarpur Subzi Mandi sub yard and the petitioners have lost the ground to hold the licences. The petitioners prayed as under:-

A. issue a Writ of Mandamus or such other similar orders thereby quashing the Orders of the Respondent No. 1 and the Respondent No. 2 in respect of the cancellation of 'A' Category Licences of the Petitioners;

B. pass appropriate directions to the Respondents to restore and to renew the 'A' Category licences of the Petitioners w.e.f. the due date i.e. when the same were discontinued; and

C. pass any such other or further order and/or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice.

3. The respondents no.1 and 2 filed counter affidavit wherein it is stated that the petitioners were granted 'A' category licences to carry on the trade and business as a wholesaler from their residential



addresses. The respondent no.2 requisitioned all files pertaining to the grant of 'A' Category Licences and thereafter an investigation was conducted against then Secretary and other officials of respondent no.1. The respondent no.2 during investigation found certain irregularities in the grant of 'A' Category licences to the traders of Subzi Mandi, Shakurpur Pushta, Delhi. The respondent no.2 placed the then Secretary and Assistant Secretary-I of the respondent no.1 under suspension. Anti-corruption Branch, Delhi also registered a case vide FIR No. 10 dated 04.03.2003 under section 120B IPC read with sections 420/468/471 IPC and section 13 (1) (d) of Prevention of Corruption Act, 1988.

3.1 The respondent no. 1 never assured the petitioners of any alternative site or shed at Ghazipur Subzi Mandi, Delhi or at any other place. MCD/PWD on 04.05.2002 removed the Mandi from Shakarpur Pushta for construction of road which was raised on the public land after encroachment. Rule 17(C) of the Rules required for renewal of licence that the applicant should have carried on business for at least one year prior to submitting application for renewal of licence. The petitioners neither informed the respondent no.1 about



this fact nor deposited market fee from 06.05.2002 onwards. The respondent no.1 as per Rule 17(C) may refuse to grant or renewal of a licence if the licensee has not been functioning during the preceding year without any reasonable cause.

3.2 The respondent no.2 on checking of the records of the licenses granted to the traders including the petitioners to carry out their trade and business at Subzi Mandi, Shakarpur Pushta, Delhi found several deficiencies in the documents of the petitioners which necessitated issuance of Show-cause Notices to them and the petitioners were informed accordingly. The petitioners were not parties in writ petitions bearing no W.P. (Civil) 4570/2002 titled as **Subhash & Others V Govt. of N.C.T. of Delhi & Others** and W.P. (Civil) 1355/2003 titled as **Sonia Kapoor & Others V Govt. of N.C.T. of Delhi & Others** which were disposed of vide order dated 05.08.2003 with directions to the respondents to take necessary decisions in pursuance of the Show Cause Notices and to consider explanations received from the petitioners. The Show Cause Notices were issued to the petitioners in November, 2002 i.e. prior to the order dated 05.08.2003 and every noticee was asked to show cause regarding



irregularity/lapse/illegality about documents filed by them for 'A' Category licence. The respondent no.1 in its meeting held on 14.01.2004 considered the explanations to the show-cause notices submitted by the petitioners and decided that the petitioners were not carrying on the business of fruits and vegetables. Accordingly, renewal of licences pertaining to the years 2002-03 and 2003-04 could not be done and the licences of the petitioners were cancelled after granting reasonable opportunity to the petitioners by issuance of Show Cause Notices and after considering their explanations which were not found satisfactory. The licences were cancelled on just and sufficient reasons.

3.3 The petitioners were given proper opportunity of being heard in Appeals. The respondent no.2 considered Appeals of the petitioners but the petitioners could not give satisfactory explanations. The petitioners did not produce documents to rebut allegations as mentioned in Show Cause Notices and made allegations. The respondent no.2 on basis of record noticed observance of due process of law in cancellation of licenses; The respondent no.2 also observed that the petitioners were not issued any



licenses for Shakarpur Pushta but on different residential addresses. The licenses were issued on the addresses which were situated much far from trading place of the petitioners. The respondent no.2 passed speaking orders while dismissing Appeals. The petitioners were holding licenses at their residential addresses as such the petitioners cannot claim as right allotment of sites/shop because the petitioners were not having the licenses of a commercial space or shop.

3.4 The petitioners were encroachers on the land at Shakarpur Pushta and they were moved out in May, 2002 for construction of a road and connecting fly over. The respondents were not having control to stop removal of encroachments at Shakarpur Pushta, Delhi. The petitioners were not entitled for space/site/*phar* at Subzi Mandi, Ghazipur as they were granted 'A' Category licenses at their residential addresses. There is no space available at Subzi Mandi, Ghazipur to accommodate the petitioners whose licenses were cancelled in accordance with law and their appeals were also dismissed. The licenses were to be renewed every year. Rule 18 of the Rules lays down that a licence shall be valid for the period for which it is issued and shall, subject to any order passed, be renewable



by the competent authority on payment of fee prescribed for the issue of such licence. The cancellation of licenses was neither arbitrary nor illegal and was done after following due procedure. The respondent no.2 passed speaking order while dismissing Appeals filed by the petitioners. It was prayed that the petition be dismissed.

4. The petitioners filed a rejoinder wherein besides reiterating contents of petition and denying contents of counter affidavit, it is stated that the allegations contained in FIR bearing no. 0010/2003 dated 04.03.2003 registered by Anti-Corruption Branch did not have any connection with the case of the petitioners. None of the licenses issued to the petitioners is involved in said criminal case. FIR bearing no. 0010/2003 dated 04.03.2003 was related only to those traders to whom licenses were granted at Shahdara Subzi Mandi. The petitioners were granted licenses when they were carrying on their vegetable business at Subzi Mandi, Shakarpur Pushta. FIR bearing no. 10/2003 has no concern with the licenses granted to the petitioners, particularly the petitioners who were carrying on their vegetable business at Shakarpur Pushta Subzi Mandi, Delhi. The petitioners were having legal right to carry on their vegetable trade



and business at any place in entire Trans Yamuna Area under the terms and conditions of the licence. The respondents were not empowered to discontinue renewal of the licenses of the petitioners due to mere removal of Subzi Mandi, Shakarpur Pushta. The petitioners were carrying on their vegetable trade and business from private shops and from their own premises. The petitioners did not leave Subzi Mandi, Shakarpur Pushta by themselves but MCD/PWD forcibly removed the petitioners from Subzi Mandi, Shakarpur Pushta. The respondents cannot refuse to renew the licenses on ground that the petitioners did not have place to carry on their business. The petitioners had submitted proper explanations to the Show Cause Notices along with documents. The petitioners were regularly carrying on business of fruits and vegetables and their licenses cannot have been discontinued by the respondents. The respondent no.2 dismissed Appeals filed by the petitioners by adopting erroneous view that since Subzi Mandi, Shakarpur Pushta was removed by MCD/PWD, as such the petitioners were not having any place to carry on trade of fruits and vegetables.



5. The petitioners also filed additional counter affidavits wherein it is primarily stated that the orders passed by the respondents whereby the licenses of the petitioners were cancelled are liable to be set aside and the licenses of the petitioners be renewed.

6. The counsel for the petitioners advanced oral arguments and submitted written submissions. It was argued that the petitioners were granted licenses of 'A' Category in year 1999 after verification of documents under Delhi Agriculture Marketing Regulation Act, 1998 read with General Rules, 2000 and were legally entitled to carry trade and business of selling fruits and vegetables as wholesalers. The licenses were renewed on yearly basis by the respondents but the licenses of the petitioners were taken up for investigation in year 2002 on frivolous reasons. The respondents in November, 2002 issued show cause notices to the petitioners pointing out few procedural irregularities in grant of said 'A' Category licenses to the petitioners who were carrying on their business under licenses at Subzi Mandi, Shakarpur Pushta, Delhi. MCD along with PWD around May, 2002, removed Subzi Mandi, Shakarpur Pushta for construction of flyover and road. The respondents issued show cause



notices due to some deficiencies in applications for grant of 'A' Category licenses.

6.1 The details of deficiencies mentioned in show cause notices issued to the petitioners and their respective replies would reveal that such deficiencies as pointed out by the respondents were curable and procedural without having any affect on grant of licenses. The counsel for the petitioners referred various deficiencies which were pointed out by the respondent no.1 such as affidavit/undertaking were without date; copy of ration card appeared to be tampered; Application Form was without signature of applicant; Application Form was without photograph of the applicant and signature differs; overwriting in rent agreement without signatures of witnesses and landlord; NOC without date and attested on 03.12.1999; site map leaded verification; no photograph and signature of family head in ration card; signature differed on documents etc. It was further argued that the petitioners submitted written replies to the show cause notices and also submitted notarized documents to correct deficiencies. The respondent no.1 accepted applications and issued licenses only after completion of legal formalities which were



renewed on year to year basis. The petitioners are ready and willing to correct any deficiency in documents submitted to the respondents. However, the respondent no.1 failed to consider the explanations and submissions of the petitioners in right prospective and rejected such explanations and also did not grant any opportunity to rectify the procedural lapses.

6.2 The counsel for the petitioners further argued that the petitioners also filed statutory Appeals before the respondent no.2 to impugn orders of the respondent no. 1 which were dismissed by passing identical and similar orders by observing that the petitioners were holding licenses on their residential addresses and therefore, they cannot claim as matter of right allotment of site/shop/*phar* because the petitioners were not having the licenses of a commercial space or shop and such plea was not raised by any party. The respondent no.2/Appellate Authority failed to give personal hearing to the petitioners in respect of such observations.

6.3 The respondent no.1 had itself written residential addresses of the petitioners on their respective licences. There was no legal bar to issue statutory licenses on residential addresses. The counsel for the



petitioners further argued that procedural defect falls within the purview of irregularity and capable of being cured and should not be allowed to defeat the substantive right accrued to the litigant without affording reasonable opportunity and relied on **M/s. Ramnath Exports Pvt. Ltd. V Vinita Mehta & Another**, (2022) 7 SCC 678. The counsel for the petitioners also referred **National Highway Authority of India V Madhukar Kumar**, 2021 SCC OnLine SC 791; **Southern Power Distribution V Hinduja National Power**, 2022 Livelaw (SC) 117. The petitioners were not granted oral hearing while passing orders in gross violation of Principle of Natural Justice. The respondents have acted *mala fide* and without authority of law to cancel the statutory licenses which were renewed in the past. It was argued that the petitioners be granted reliefs as prayed for.

7. The counsel for the respondents also advanced oral arguments and submitted written submissions. He argued that the petitioners were granted 'A' Category license to carry on the trade & business of selling fruits and vegetables as wholesaler. The files pertaining to grant of licenses were investigated after few years and various irregularities were noticed in grant of "A" Category licenses to the



traders of Shakurpur Pushta, Delhi. The then Secretary and Assistant Secretary of the respondent no.1 were placed under suspension as result of said investigation. The Anti-corruption Branch, Delhi also registered a case vide FIR no.10 dated 04.03.2003 under section 120B read with sections 420/468/471 IPC and section 13(1)(d) of Prevention of Corruption Act, 1988.

7.1 It was further argued on behalf of the respondents that MCD/PWD on 04.05.2002 removed the Shakarpur Mandi for construction of road as it was situated on encroached public land. The respondent no.1 also noticed various deficiencies in the documents of the petitioners on basis of which the petitioners were issued 'A' Category licenses and accordingly show cause notices were issued to them to inform about deficiencies and also about false and wrong information furnished by them at the time of submitting respective application forms for grant of 'A' Category license. The respondent no.1 in its meeting held on 14.01.2004 considered explanations submitted by the petitioners to the show cause notices and decided that the petitioners were not carrying on the business of fruits and



vegetables. Accordingly, renewal of licences of the petitioners was not done after 2003-2004 and their licenses were cancelled.

7.2 It was further argued that the petitioners also filed Appeals before the respondent no.2 and the Appellate Authority after giving opportunity of being heard to the petitioners, considered all contentions raised in the Appeals. The respondent no.2 opined that the petitioners neither submitted satisfactory explanations nor produced any evidence to prove that allegations levelled in show cause notices were wrong. The Appellate Authority accordingly dismissed the appeals. It was also found that the petitioners were holding licenses on their residential addresses and as such cannot claim allotment of site/shop/*phar* as matter of right as the petitioners were not having the licenses of a commercial space or shop.

7.3 It was further argued that the petitioners were granted licenses on the basis of the documents submitted by them and renewal of the licenses in subsequent years depended upon validation and correction of the documents. It was found that the licenses were obtained by submitting fake and wrong information and accordingly show cause notices were issued to the petitioners along with relevant portion of



fact finding inquiry and irregularities observed concerning the licenses of the petitioners. The licenses were cancelled in accordance with law. The respondent no.2 by passing speaking orders dismissed the Appeals of the petitioners. It was argued that present writ petition be dismissed being without any merit.

8. It is reflecting that the petitioners were granted 'A' Category licenses by the respondent no.1 for doing business of sale and purchase of fruits and vegetables at Subzi Mandi, Shakarpur Pushta, Shahdara, Delhi. The sheds of the petitioners in Subzi Mandi, Shakarpur Pushta were demolished on 04.05.2002 by the public authorities i.e. MCD/PWD. The respondent no.1 issued Show Cause Notices to the petitioners regarding cancellation of their licences. The licence holders filed the Civil Writ Petitions bearing no. 4570 of 2002 titled as **Subhash & Others V Govt. of N.C.T. of Delhi & Others** and 1355 of 2003 titled as **Sonia Kapoor & Others V Govt. of N.C.T. of Delhi & Others** which were disposed of vide order dated 05.08.2003 directing the respondent no.1 for taking necessary decision in pursuance to the show cause notices and after considering responses along with documents received from the petitioners. The



replies were submitted by the petitioners wherein they denied allegations mentioned in show cause notices regarding obtaining of the licences by submitting false and wrong information. However, the Assistant Secretary of the respondent no.1 cancelled the renewal applications of the petitioners by a common order. The petitioners filed Appeals before the Vice Chairman of the respondent no.2 i.e. Delhi Agricultural Marketing Board under Section 82 of the Act and also submitted the documents along with Appeals besides denying allegations of the respondent no.1 but Appeals were dismissed by the Appellate Authority. The main grievance of the petitioners was that the respondent no.1 granted the licences to the petitioners after proper inquiries and verification of the documents and the respondent no.1 has renewed the licences after inquiries and fresh verification of the documents and further the Appellate Authority i.e. the Vice Chairman of the respondent no.2 did not provide sufficient opportunity to the petitioners to present their case in Appeals. The counsel for petitioners also argued that the petitioners were granted 'A' Category licenses after verification of documents which were renewed on yearly basis. The respondent no.1 in pursuance of show



cause notices issued in November, 2002 on allegations of procedural irregularities in grant of said A Category licenses which were curable, refused to renew and cancel the licenses without giving opportunity of being heard. The respondent no.2 also dismissed Appeals preferred by the petitioners against law and by passing identical and similar orders. The counsel for the petitioners primarily argued that the petitioners were not granted oral hearing while passing impugned orders passed by the respondents no.1 and 2 in gross violation of principle of natural justice.

8.1 The respondents pleaded that the respondent no.2 conducted investigation in matter of grant of 'A' Category licences and irregularities were notices during investigation in the grant of 'A' category licences to the traders of Subzi Mandi, Shakurpur Pushta, Delhi. The Anti-corruption Branch, Delhi also registered FIR bearing no.10 dated 04.03.2003 under section 120B IPC read with sections 420/468/471 IPC and section 13(1)(d) of Prevention of Corruption Act, 1988. MCD/PWD on 04.05.2002 removed the Subzi Mandi from Shakarpur Pushta being situated on public land and for construction of road. The petitioners being licensees were not



functioning and carrying their business during the preceding year without any reasonable cause which was a mandatory requirement as per Rule 17(C) of Delhi Agricultural Produce Marketing (Regulation) General Rules, 2000. The respondent no.2 on checking of the records of the licences including the petitioners noticed several deficiencies in the documents submitted by the petitioners. The respondent no.1 decided not to renew licences for years 2002-03 and 2003-04 in its meeting held on 14.01.2004 after considering explanations to the show-cause notices submitted by the petitioners and the licences of the petitioners were cancelled. The respondents stated that licensees were cancelled after granting reasonable opportunity to the petitioners and on just and sufficient reasons. The respondent no.2 passed speaking orders while dismissing Appeals. The petitioners were not entitled for space/site/*phar* at Subzi Mandi, Ghazipur as claimed by them because the petitioners were granted 'A' Category licensees at their residential addresses. The counsel for the respondents also argued that various irregularities were noticed during investigation in grant of 'A' Category licenses to the traders of Shakurpur Pushta, Delhi and accordingly show cause notices were



issued to the petitioners. The respondent no.1 did not renew licences of the petitioners after 2003-2004 and their licenses were cancelled. The Appellate Authority has decided Appeals filed by the petitioners after giving opportunity of being heard to the petitioners. The petitioners have obtained licenses by submitting fake and wrong information.

9. The principles of natural justice involve a procedural requirement of fairness and have become an essential part of any system of administrative justice. Natural Justice is considered to be part of rule of law. The Supreme Court in **Sangram Singh V Election Tribunal Kotah**, AIR 1955 SC 425 observed that none should not be condemned unheard and decision should be reached behind the back. The Supreme Court in **Maneka Gandhi V Union of India**, AIR 1978 SC 597 emphasized that natural justice is an essential element of procedure established by law and state action must be right, just and fair and not arbitrary, fanciful and oppressive. It was held that Article 14 of the Constitution strikes at arbitrariness of state action and ensures fairness and equality of treatment. It was also observed in **Union of India V Tulsi Ram Patel**, AIR 1985 SC 1416 that Article 14 is not creator of principles of natural justice but



it is constitutional guardian of Article 14. The Supreme Court in **Mohinder Singh V Chief Election Commission**, AIR 1978 SC 851 observed that the principles of natural justice are bones of healthy government. The Supreme Court in **Indian Oil Corporation Limited and others V Shashi Prabha Shukla and Another**, (2018)

12 SCC 85 observed as under:-

33. (a) public authority in its dealings has to be fair, objective, non arbitrary, transparent and non discriminatory. The discretion vested in such an authority, which is a concomitant of its power is coupled with duty and can never be unregulated or unbridled. Any decision or action contrary to these functional precepts would be at the pain of invalidation thereof. The State and its instrumentalities, be it a public authority, either as an individual or a collective has to essentially abide by this inalienable and non negotiable prescriptions and cannot act in breach of the trust reposed by the polity and on extraneous considerations. In exercise of uncontrolled discretion and power, it cannot resort to any act to fritter, squander and emasculate any public property, be it by way of State largesse or contracts, etc. Such outrages would clearly be unconstitutional and extinctive of the rule of law which forms the bedrock of the constitutional order.

The Supreme Court in **Southern Power Distribution Company Limited of Andhra Pradesh (APSPDCL) & Another V**



M/s Hinduja National Power Corporation Limited & Another,
2022 Livelaw (SC) 117 and also cited by the counsel for the
petitioners observed as under:-

Every action of a State is required to be guided by the touchstone of non arbitrariness, reasonableness and rationality. Every action of a State is equally required to be guided by public interest. Every holder of a public office is a trustee, whose highest duty is to the people of the country. The Public Authority is therefore required to exercise the powers only for the public good.

9.1 The principles of natural are equally applied in purely administrative functions. The Supreme Court in **A.K. Kraipak V Union of India**, AIR 1970 SC 150 observed that the principles of natural justice are applicable to administrative inquiries and established that observance of principles of natural justice in decision making process of the administrative body having civil consequences. The Supreme Court again in **Neelam Mishra V Harinder Kumar Paintal**, AIR 1990 SC 1137 observed that administrative order involving civil consequences must be passed in accordance with notions of fairness.

9.2 The purpose of the principles of natural justice is to prevent miscarriage of justice. The expression *audi alteram partem* implies



that a person must be given an opportunity to defend himself and ensures that no one should be condemned unheard. *Audi alteram partem* makes it obligatory for an authority that a party should not suffer in person or in purse without an opportunity of being heard and implies that before an order is passed against any person a real, reasonable and effective opportunity of being heard must be given to him. The rule of fair hearing is consisting of two components which are notice and hearing. It is basic principle of natural justice that the authority should give to the affected party a notice of the case against him so that he may defend himself adequately. Notice is starting point of any hearing and *sine qua non* of fair hearing. The administrative authority is also required to afford reasonable opportunity to the party to present his case. A real, rational and effective hearing includes disclosure of all relevant material or information which the authority wishes to use against the individual in arriving to its decision. The administrative authority cannot take a decision on the basis of any material unless the person against whom it is sought to be utilised is given an opportunity to rebut or explain the same.



9.3 The courts in exercise of judicial review are concerned with the legality rather than the merits of the case. The courts are not a forum to hear appeals from the decision of the authority and would not interfere in exercise of discretion by an authority. The court cannot substitute its own decision for that of decision taken by an authority. The judicial review is different from an appeal as court while hearing appeal is concerned with merits of decision under appeal. It was observed in **Chief Constable of North Wales Police V Evans**, (1982) 3 All ER 141 that judicial review is concerned with the decision making process and not with the decision. It was also observed in **Lonrho plc. V Secretary for State for Trade and Industry**, (1989) 2 All ER 609 that judicial review is a protection and not a weapon. The Supreme Court of India in **Tata Cellular V Union of India**, (1994) 6 SCC 652 also observed that judicial review is concerned with reviewing of the decision making process itself but not the merits of the decision. It was also observed in **S. R. Bommai V Union of India**, AIR 1994 SC 1917 that the courts in exercise of judicial review in field of administrative law are not concerned with



the merits of the decision but with the manner in which the decision was taken or order was made.

9.4 The power of judicial review reflects reconciliation of two conflicting principles. First, the courts have not been given power to hear appeals against the decision taken by an authority as the legislation has conferred power on administrative authorities to take decisions and secondly, the administrative authority must act within the bounds of law and power and the courts have to exercise power of judicial review to keep administrative authorities within the confines of law.

10. The petitioners were granted 'A' Category licenses for selling fruits and vegetables in Subzi Mandi, Shakurpur Pushta, Delhi which were renewed subsequently from time to time. The respondent no.1 issued show cause notices dated 25.11.2002 to the petitioners wherein it was mentioned that the petitioners have taken licence by submitting false and wrong information for wrongful gains as revealed from findings of the fact finding Committee and relevant portion of fact finding enquiry concerning the individual petitioner was also enclosed with the show cause notice. The respondent no.1



through Assistant Secretary-1 asked the petitioners to show cause as to why their licenses should not be cancelled for lapses as mentioned in show cause notices on their part. The petitioners were directed to file reply to show cause notices within 07 days. The petitioners as such before cancellation of their 'A' Category licenses were issued show cause notices and relevant portion of findings of fact finding enquiry was also enclosed with the show cause notices. The petitioners also filed their respective replies wherein it is primarily stated that objections raised under show cause notice were wholly frivolous and have been raised to defeat the case of the petitioners regarding allotment of a shop/site/*phar* at Ghazipur Mandi. It was also stated that the licenses were issued to the petitioners after completion of requisite and necessary formalities and necessary documents were submitted by the petitioners along with application for grant of licenses. The licenses were renewed in the years 2000, 2001 and 2002. The petitioners also explained and replied to other allegations as mentioned in show cause notices.

10.1 The counsel for the respondents argued that subsequent to grant of 'A' Category licenses to the petitioners, several deficiencies



were found in the documents submitted by the petitioners and accordingly show cause notices were issued to the petitioners informing them about deficiencies and false and wrong information submitted by the petitioners. The counsel for the petitioners argued that deficiencies pointed out by the respondents were curable and without having any bearing effect on grant of licenses and their validity. The Tabular Charts pointing out deficiencies as per respondents in the documents or information given by the petitioners in applications submitted by the petitioners for grant of licenses and replies given by the petitioners were filed in compliance of orders dated 13.05.2010 and 02.09.2021 which are perused. The perusal of Tabular Chart filed in compliance of order dated 13.05.2010 reflects that the petitioners did not mention accurate information in applications submitted for grant of 'A' Category licenses and there were various discrepancies in the documents submitted along with applications. The petitioners were required to furnish accurate information in application forms and correct and right documents were also required to be submitted along with applications. The discrepancies as detailed in Tabular Charts cannot be permitted or



allowed to be corrected subsequently as pleaded by the petitioners and many of such discrepancies cannot be cured procedurally. There is no force in arguments advanced by the counsel for the petitioners that deficiencies pointed out by the respondents were curable and without having any bearing effect on grant of licenses and their validity.

10.2 This court vide order dated 05.08.2003 passed in Civil Writ Petitions bearing no. 4570/2002 titled as **Subhash & Others V Govt. of N.C.T. of Delhi & Others** and 1355/2003 titled as **Sonia Kapoor & Others V Govt. of N.C.T. of Delhi & Others** directed the respondent no.1 for taking necessary decision in pursuance to the show cause notices and after considering responses along with documents received from the petitioners. Thereafter the Assistant Secretary of the respondent no.1 vide order dated 11.03.2004 cancelled the renewal of licenses of the petitioners. The perusal of order dated 11.03.2004 reflects that the documents submitted by the petitioners for renewal of licenses for years 2002-2003 and 2003-2004 were examined on 14.01.2004 by the concerned committee in pursuance of show cause notices issued to the petitioners and



thereafter, after due consideration in pursuance of directions given by this court vide order dated 05.08.2003, the respondent no.1 has cancelled application for renewal of licenses for years 2002-2003 and 2003-2004. The respondent no.1 before passing the order dated 11.03.2004, had given sufficient opportunity of being heard to the petitioners by issuing show cause notices and also considered replies submitted by the petitioners. The respondent no.1 as such followed principles of natural justice before passing order dated 11.03.2004 which cannot be termed as arbitrary, perverse or discriminatory. The petitioners were given real, rational and effective hearing which included issuance of show cause notices and disclosure of relevant material which the respondent no.1 actually used against the petitioners before passing order dated 11.03.2004. There is no legal force in arguments advanced by the counsel for the petitioners that deficiencies pointed out by the respondent no1 as detailed in respective show cause notices issued to individual petitioners were curable without having any bearing effect on grant of licenses. The respondent no.1 duly considered explanations and submissions of the



petitioners in right prospective and thereafter rejected such explanations after following principles of natural justice.

11. The petitioners pleaded that they were granted licenses for Subzi Mandi, Shakarpur Pushta, Shahdara, Delhi and continued to carry on sale and purchase of fruits and vegetables at Subzi Mandi, Shakarpur Pushta, Shahdara, Delhi. The petitioners were assured by the respondent no.1 for providing sheds at the newly constructed fruit and vegetable market at Ghazipur, Shahdara, Delhi after being removed from Subzi Mandi, Shakarpur Pushta due to its demolition on 04.05.2002. The respondents pleaded that the petitioners were never assured for allotment of sheds/spaces/*phars* at Fruits & Vegetables Market, Ghazipur, Shahdara, Delhi and PWD/MCD demolished Subzi Mandi, Shakarpu Pushta, Delhi on 04.05.2002 being raised after encroachment on public land and for construction of road. The petitioners did not place any document or other material to show that they have ever been assured by the respondent no.1 for allotment of shed/space/*phars* at Ghazipur Subzi Mandi. The claim of the petitioners is without any justified basis and cannot be entertained.



12. The petitioners pleaded that they filed Appeals before the Vice Chairman of the respondent no.2 under Section 82 of the Act to impugn order dated 11.03.2004 but Vice Chairman of the respondent no.2 without considering the Appeals properly and providing any opportunity to the petitioners to present their cases, dismissed the Appeals vide order dated 08.02.2005 mainly on the ground that the petitioners have lost the grounds of holding licenses as Shakarpur Pushta Mandi was demolished. It was alleged that Vice Chairman of the respondent no.2 after adopting unjustified approach, dismissed appeals illegally and against principles of natural justice. The respondents no.1 and 2 alleged that the petitioners were given proper opportunity of being heard in Appeals and could not give satisfactory explanations. The respondent no.2 passed speaking orders while dismissing Appeals.

12.1 The perusal of order dated 08.02.2005 reflects that the petitioners filed appeals under section 82 of the Act to impugn order dated 11.03.2004 issued/passed by the respondent no.1 whereby the applications of the petitioners for renewal of their licenses for 2002-2003 onwards was rejected. The petitioners in appeals contended that



they were issued 'A' Category licence which was renewed for subsequent years for operating in Shakarpur Pushta where clearance drive was launched by PWD in May, 2002 for facilitating construction of road. It was further contended that Show Cause Notices issued by the respondent no.1 have been properly replied and licences were not obtained by misrepresentation of facts and as such there was no ground for refusal under Rule 17 of the Rules or under section 81(1)(a) of the Act. It is also reflecting that that the respondent no.2 gave opportunity of hearing to the petitioners and the respondent no.1. The respondent no.2/Appellate Authority further observed that the respondent no.1 had issued show cause notice to the petitioners as per Rule 15(i) of the Rules read with bye-law 34 of the APMC, Shahdara wherein grounds for cancellation of licence were mentioned. It was also observed that the petitioners submitted reply to the respondent no.1 which was considered by the respondent no.1 and thereafter the respondent no.1 vide order dated 11.03.2004 had cancelled the licenses. The respondent no.2/Appellate Authority finally observed that the petitioners/appellants have neither contended nor supported genuineness of documents pointed as



irregular by the respondent no.1. The respondent no.2 further observed that the petitioners were granted licenses much earlier which were renewed subsequently and as such it was not open for the respondent no.1 to raise such allegations as mentioned in show cause notices. The respondent no.2 in order dated 08.02.2005 also observed that the petitioners could not produce any document to rebut allegations as mentioned in show cause notices. It reflects that the respondent no.2 as appellate authority applied its mind on material produced on record and passed a reasoned order. The respondent no.2 also observed that licenses were issued to the petitioners on addresses other than Subzi Mandi, Shakarpur Pushta which was demolished by the local authorities being encroachment on public land. The respondent no.2 had failed to consider that the petitioners were granted 'A' Category licenses to carry fruit and vegetables business at Shakarpur Pushta. However this observation of the respondent no.2 does not render the order dated 08.02.2005 invalid in law. Otherwise the respondent no.2 passed the order dated 08.02.2005 on basis of valid reasons. There is no infirmity in the order dated 08.02.2005



passed by the respondent no.2. There is no force in arguments advanced by the counsel for the petitioners.

13. There is no infirmity or illegality in the order dated 11.03.2004 passed by the respondent no.1 and the order dated 08.02.2005 passed by the respondent no.2. There is no merit in the present petitions, hence the present petitions are dismissed along with pending application, if any.

14. The Registry is directed to amend the cause title as per the amended memo of parties.

DR. SUDHIR KUMAR JAIN
(JUDGE)

JUNE 19, 2024

J/AM