



2026:DHC:3733



\$~A-7, 6, 8, 10, 11, 13, 14, 17, 18, 20, 28 to 32, 36 & 53

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

+ **W.P.(C) 5706/2021, CM APPL. 17869/2021, CM APPL. 5284/2022, CM APPL. 9312/2022 and CM APPL. 55015/2024**

Date of Decision: **10.04.2026**

IN THE MATTER OF:

PERCH A UNIT OF SUNRISE F
AND B RESTAURANT PVT LTD

.....Petitioner

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.

.....Respondents

With

- + W.P.(C) 2913/2020 & CM APPL. 10125/2020, 60512/2023
- + W.P.(C) 10090/2021 & CM APPL. 31150/2021
- + W.P.(C) 11538/2021 & CM APPL. 35597/2021
- + W.P.(C) 11763/2021 & CM APPL. 36399/2021
- + W.P.(C) 12901/2021 & CM APPL. 40669/2021
- + W.P.(C) 12902/2021 & CM APPLs. 40680-40681/2021
- + W.P.(C) 15143/2021 & CM APPL. 47714/2021
- + W.P.(C) 15157/2021 & CM APPL. 47764/2021
- + W.P.(C) 644/2022 & CM APPL. 1851/2022
- + W.P.(C) 6633/2022 & CM APPL. 20146/2022
- + W.P.(C) 8662/2022 & CM APPL. 26087/2022
- + W.P.(C) 8663/2022 & CM APPL. 26090/2022
- + W.P.(C) 8672/2022 & CM APPL. 26122/2022
- + W.P.(C) 9124/2022 & CM APPL. 27460/2022
- + W.P.(C) 1495/2023 & CM APPL. 5577/2023
- + W.P.(C) 2028/2025 & CM APPL. 9579/2025

Appearance:

For Petitioners:-



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Mr. M. A. Niyazi with Ms. Anamika Ghai Niyazi, Ms. Kirti Kumari, Ms. Nehmat Sethi and Mr. Adnan Ashfaq Naqash, Advocates.
Mr. Prabhakar Meher, Advocate in item 36.

For Respondents:-

Ms. Kanika Agnihotri, SC with Mr. Yoginder Handoo, ASC along with Mr. Ashwin Kataria, Mr. Garvit Solanki, Ms. Kanika Agnihotri, Standing Counsel for NDMC and Ms. Shivani Patil, Advocates for GNCTD.

Mr. Himanshu Pathak, SPC along with Mr Mohit Gupta, Advocates in item 7 for UOI.

Mr. Bhagwan Sawrup Shukla, CGSC with Mr. Mukesh Kumar Pande and Mr. Dashmesh Tripathi, Advocates for UOI.

Mr. Tushar Sannu and Mr. Ritik Anmol, Advocates for MCD in Item 7.

Mr. Vikrant Nilesh Goyal, Mr. Yash Basoya, Mr. Inderpreet Singh and Mr. Kunal Dixit, Advocates for UoI.

Ms Avni Singh, Panel Counsel-GNCTD with Mr Vaibhav Sharma, Advocate in Item 11.

Mr. Amit Tiwari, CGSC with Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Mr. Arpan Narwal, Mr. Kushagra Malik and Mr.Ujjwal Tyagi, Advocates for UOI in Items 9, 13 and 14, 17.

Mr Farman Ali CGSC with Ms Usha Jamnal, Advocate in item 30.

Mr. Siddhartha Nagpal, Senior Panel Counsel for UOI in Item 56.

Mr Vinay Yadav, CGSC with Ms. Kamna Behrani, Mr. Ansh Kalra and Mr. Neeraj Paulose Raj, Advocates for Delhi Police.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The grievance raised in this batch of writ petitions is with respect to the non-renewal/non-issuance of requisite permissions/licenses to the petitioners, who operate fine-dining restaurants, mainly situated in Khan Market, under the jurisdiction of the New Delhi Municipal Council



(NDMC).

2. The petitioners' case is that for a period subsequent to the time when they started operating, they had all relevant permissions/licenses. However, around the year 2020/2021, owing to non-renewal of the mandatory health license by NDMC, certain other permissions/licenses were also not renewed. The non-renewal of health licenses was on account of the lack of a No Objection Certificate (**Fire NOC**) from the Delhi Fire Service (**DFS**). As per the petitioners, the restaurants being operated by them do not require any Fire NOC, and therefore, the refusal to grant health licenses is illegal and arbitrary.

3. As per the stand taken by DFS, the provisions of the Delhi Fire Service Rules, 2010 (**Rules**), framed under the Delhi Fire Services Act, 2007 (**Act**) require it to ensure compliance with the Unified Building Bye-Laws, 2016 (**Bye-Laws**) and the National Building Code of India, Part-IV, 2016 (**Code**). According to it, under Rule 34 of the Rules, Fire Clearance Certificates/Fire NOC are issued with respect to buildings covered under Rule 27 thereof, including 'assembly buildings'.

4. It is the case of DFS that the units out of which the petitioners' restaurants are being operated qualify as 'assembly buildings' as defined under Clause 3.1.5 of the Code, since their floor area indicated a capacity to accommodate more than fifty persons at a time, in terms of Clause 4.3 thereof.

5. On the other hand, the petitioners' case is that the reliance placed on Clause 4.3 of the Code by the respondents is misplaced. According to them, the area to be taken into consideration while determining the seating capacity of restaurants is only the dining area and not the entire building.



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6. Further, according to them, they had been granted health licenses and the same were being renewed from time to time, without any requirement of Fire NOC from time to time, earlier, and abruptly, NDMC has applied such requirements without any basis.

7. On 19.09.2024, the Court found that without going into the merits of the dispute, the direction can be issued to the respondents to convene a joint meeting and to deliberate upon the issue as to whether any practical mechanism acceptable to all stakeholders can be evolved so as to ensure the continuous operation of the restaurants and to also comply with safety requirements. It appears that, thereafter, efforts were made and meetings were conducted. The petitioners had undertaken to maintain an upper-limit of fifty persons at a time in their establishments, and the matters were, thereafter, taken up on various further dates.

8. In the interregnum, on 18.12.2024, it was noted by the Court that NDMC was collaborating closely with relevant authorities including the DFS, to ensure adherence to all prescribed safety guidelines.

9. However, before the issue could be taken to its logical conclusion, NDMC issued the notification on 23.02.2026, wherein it has been clarified that it will not be mandatory for the existing establishment to obtain health trade licenses from NDMC, if it possesses a valid FSSAI or GST registration as applicable. For the sake of clarity, the said notification is reproduced below, for reference:

“Subject: Deemed permission/licence under Section 318, 325, 327, 330, 331, 332 of the NDMC Act, 1994 to various trades operating in NDMC areas established/recognised in FSSAI Registration/GST Registration under the initiative of “Ease of Living” and “Ease of Doing Business”.



The eating establishments/shops/premises or any trade registered with FSSAI/GST are, by their very purpose, meant for food-related trade activities or any other trade activities. Issuing of any independent Health Licensing Department, NDMC to establishments/shops/premises or any trade already registered with FSSAI/GST is an additional redundant compliance burden. To liberalize licensing regime there is a need to eliminate requirement of multiple licenses.

2. Environmental norms are enforced through consent to establish/operate and/or authorisation by the Delhi Pollution Control Committee (DPCC). Fire safety norms are enforced by the Delhi Fire Service through fire safety certificates. Structural safety is examined during the process of sanctioning building plans and issuing completion certificates by NDMC.

3. The matter of reforming the permission/license system in NDMC for various trades recognised by FSSAI/GST has been considered by the competent authority and Resolution No. 52 (Health Licensing) dated 21.01.2026 has been passed by the Council.

4. Now, to promote Ease of Living (EoL) and Ease of Doing Business (EoDB), it is decided, with the approval of the competent authority, as under:

I. The Licenses/registrations issued under the FSSAI Act, 2006 shall be deemed to be licenses issued by the Chairperson, NDMC under Section 318, Section 330 (within the permitted limits decided by the competent Authority, NDMC regarding the number of hawkers), Section 331 and Section 325 of the NDMC Act, 1994.

II. The GST registration shall be deemed to be the license issued by the Chairperson, NDMC under Section 318, Section 327 and Section 332 of the NDMC Act, 1994.

III. It will not be mandatory for the existing establishment to obtain a Health Trade License from NDMC if it holds a valid FSSAI or GST registration, as applicable. Ensuring public health and hygiene standards in various establishments is an important function of the Council. Therefore, to ensure the maintenance of hygiene and sanitation standards from a public health perspective in such establishments, the inspection team deputed by the NDMC will continue to monitor such establishments and get regular medical checkups of employees done to ensure public safety, hygiene. In case of violations of public safety, hygiene and sanitation standards, punitive action as per NDMC Act 1994 shall be undertaken to enforce the same. Units operating without FSSAI/GST registration



shall be treated as without Health Trade License of NDMC and suitable action as per NDMC Act 1994 will be initiated to prevent any risk of life and property.

5. *The said recognition/deeming as permission/license of NDMC will be valid subject to the owner/occupier/operator complying with other legal norms and obtaining at his own level the requisite regulatory clearances from the authorities concerned, as applicable. It shall be the sole duty and responsibility of the owner/occupier/operator to ensure safety of life and property while running his trade and he will thus be solely liable for civil and criminal liabilities if there is any loss of life & property. No separate Health licence will thus be issued. In case any information regarding non-compliance of regulatory clearances is conveyed from any authority concerned, NDMC will initiate action for compliance of the same or enforce suspension/cessation of trade operation to prevent any risk of loss of life & property.*

6. *The license fee will be recovered from deemed license holder as per existing fees approved by the Council, till further revision by the Council.*

7. *This is issued with the approval of Competent Authority, NDMC.*

This order becomes effective immediately.”

10. It is, thus, submitted on behalf of NDMC that the requirement of health licenses stands dispensed with, subject to compliance of the other directions as contained in the notification dated 23.02.2026.

11. Submissions are also made on behalf of the Delhi Police that they are no longer part of the licensing activity, the aforesaid right of the police department having been dispensed with on account of a subsequent notification. At this juncture, it is pertinent to note that the prayers in these petitions are with respect to non-renewal/non-issuance of the health license for lack of fire NOC.

12. In view of the aforesaid development, the question as to whether the buildings in which the petitioners are operating their restaurants are ‘assembly buildings’ or not does not require adjudication on merits, as the



same has now become merely an academic issue. The Court, however, will have to balance equities, keeping in mind various facts and circumstances as have been noted from time to time. The restaurants in question are situated in one of Delhi's most prestigious and historically significant commercial area.

13. The market is a recognized heritage site, known for its iconic and distinctive architectural character, as well as its rich and well-established cultural identity. Because of structural constraints, the entire market has only one feasible entry and exit point for the first and second floor, where the restaurants are located. These features have remained in existence since long. The petitioners, in order to avoid any complication, have also undertaken that they will not host more than 50 guests at a given point of time. There does not seem to be any reason to disbelieve the petitioners' submissions.

14. In any case, so long as the petitioners are ready and willing to abide by all safety measures of the government departments, there should not be any reason to disallow the operation of the petitioners' establishments only on account of structural constraints. Further, the petitioners have made the following undertaking with respect to fire safety measures in order to mitigate the respondents' concerns:

"FIRE SAFETY MEASURES IN KHAN MARKET RESTAURANTS"

1. Installation and Maintenance of Fire Detection and Alarm Systems: All restaurants operating on the first and second floors have ensured installation of functional smoke detectors and fire alarm systems connected to a centralized alarm mechanism for immediate detection and warning in case of fire. These systems are periodically inspected/checked.



2. *Provision of Portable Fire-Fighting Equipment:* Each establishment maintains adequate numbers of fire extinguishers (ABC type, CO2 type, kitchen fire extinguishers for oil/grease fires) placed at accessible points, along with hose reels wherever feasible. Staff are trained in their use.

3. *Kitchen Exhaust, Ducting, and Suppression Systems:* All kitchen exhaust ducts, chimneys, and hoods are periodically cleaned and maintained to prevent grease accumulation. Automatic fire suppression systems for kitchen hoods, wherever technically feasible, are installed, particularly in establishments using tandoors, grills, or deep-frying equipment.

4. *Electrical Safety Compliance:* All restaurants undertake periodic inspection of electrical wiring, load distribution, panels, and appliances.

5. *LPG and Fuel Safety Protocols:* Where LPG cylinders are used, only approved installations with leak detection systems, proper ventilation, and emergency shut-off valves are maintained. Commercial gas pipelines, where available, are preferred over loose cylinder storage. No excess or unauthorized cylinder storage is permitted inside the premises.

6. *Clear and Unobstructed Means of Egress:* Passageways, staircases, and access routes leading to exit are kept free from obstructions, storage material, furniture obstruction, etc. Emergency exit signage and illuminated escape route indicators are prominently displayed.

7. *Emergency Response and Staff Training* All restaurant staff undergo periodic fire safety drills and basic emergency evacuation training.

8. *Coordination with Building Owners and Market Association:* Since structural fire safety measures such as staircases, common passages, terrace access, some restaurants have coordinated with occupiers of adjoining building/buildings and made openings in the common boundary walls on the second floor for evacuation in case of an emergency. The guests in emergency could go to next building through the second floor.

9. *Compliance with Capacity and Seating Norms:* Restaurants strictly adhere to safe occupancy limits and do not exceed seating arrangement beyond permissible norms (less than 50) so as to ensure safe evacuation during emergencies. The number of guests allowed are displayed prominently at the counter/notice board.

10. *Periodic Certification and Inspection:* The establishments undertake to cooperate with inspections by the Fire Department, NDMC, and other



competent authorities, and to promptly rectify any deficiencies pointed out, within a reasonable compliance period.

11. No Major Structural Alterations Without Approval: No restaurant undertakes unauthorized structural changes affecting fire safety, including enclosure of balconies, blockage of ventilation shafts, covering of common passages, or alteration of staircase access, without prior approval from the competent authority.

12. Collective Fire Safety Compliance Plan for Khan Market: Considering the peculiar layout of Khan Market and the age of the buildings, the restaurants are willing to participate in a market-wide coordinated fire safety compliance plan under the supervision of the competent authorities, ensuring practical, phased, and implementable compliance. Mockdrills by Delhi Fire Services are encouraged and conducted periodically and DFS may be directed to continue doing mockdrills.

13. CCTV: All the restaurants have CCTV with recordings which can ensure check on the actual occupants.

14. No waiting area/lounge inside restaurants: The restaurants do not have waiting area/lounge inside restaurants and the waiting guests are allowed to enter the restaurants only when there is vacancy inside restaurants. Every restaurant has one attendant at the ground floor outside the restaurant to manage the guests and inform about the expected waiting time.

The restaurants are willing to abide by and install any other safety measures which the DFS may suggest in future which are applicable and feasible for non-assembly buildings keeping in mind the construction constraints of the buildings in Khan Market."

15. In view of the aforesaid and the Court finds that keeping the writ petition pending any more will not serve any useful purpose. Indeed, public safety is of paramount importance and would take precedence over any commercial interests of the petitioner. The said concerns may be adequately addressed with active co-operation between the petitioners and the concerned authorities. Therefore, the following directions are issued:



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- i. The petitioners shall be bound by the aforementioned undertaking.
- ii. The petitioners shall not be denied permission to operate their restaurants only on account of lack of Fire NOC so long as the petitioners are maintaining a maximum occupancy of fifty persons at a given point of time. The respondents shall be at liberty to monitor this aspect by requiring the petitioner to deploy appropriate technological tools. In case of violations appropriate action shall be taken.
- iii. The petitioners shall install and keep operational automatic fire detection and alarm systems, as also fire-fighting equipment which are to be regularly checked and maintained.
- iv. The petitioners shall ensure compliance with the electrical safety requirements, and fuel safety protocol as per the extant rules/regulations.
- v. The petitioners are to ensure clear and unobstructed means of ingress and egress into and from their establishments. They shall co-ordinate with the building owners and market association to ensure collective compliance with this requirement.
- vi. The staff at the establishments being operated by the petitioners are to be given adequate emergency response and staff training to respond to emergency situations.
- vii. The petitioners shall not undertake any major structural changes without prior approval of the competent authority.
- viii. The petitioners shall coordinate with DFS, NDMC, and other competent authorities who shall inspect the fire-safety measures installed in the property in question. The petitioners shall rectify any



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deficiency therein, pointed out by the competent authorities.

- ix. In any case, if, for lack of Fire NOC, any action is contemplated against the petitioners, the same shall not be given effect to without 30 days prior notice. The petitioners, thereafter, shall be at liberty to take proper recourse in accordance with law.
 - x. The petitioners shall adhere to such policy decisions, rules, and regulations, in this regard as may be taken by the respondents in the future.
 - xi. Besides other statutory compliances, each of the petitioners shall, quarterly, submit self attested Fire Safety Audits before the DFS.
16. With these directions, petitions stand disposed of.

PURUSHAINDRA KUMAR KAURAV, J

APRIL 10, 2026/p