



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

% Date of Decision: 02.05.2025

+ **W.P.(C) 5761/2025, CM APPL. 26335/2025 and**
CM APPL. 26336/2025

SHRI MANOJ SABHARWALPetitioner
Through: Mr. Prabhakar, Advocate.

versus

SHRI AZAD ALIRespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present petition, the petitioner seeks setting aside of the impugned order dated 30.06.2017 passed by the Authority under the Delhi Shops & Establishments Act, 1954 (hereafter, the 'DSE Act') vide which an application filed by the respondent under Section 21 of the DSE Act came to be allowed.

2. In the impugned proceedings, the respondent, who claimed to having been employed by the petitioner's firm M/s *Faagun Boutique* as a Cutting Master, had sought his earned wages for period from 01.07.2013 to 30.11.2014. It was his case that the management had only paid a sum of Rs.1,06,660/- and dues worth Rs.2,40,000/- were remaining to be paid. The respondent further alleged that the petitioner changed the name of the firm to M/s *Faagun Studio* to avoid paying the respondent's wages. In this regard, the respondent made a complaint dated 07.08.2015 at P.S. Moti



Nagar. The respondent also sent a demand notice dated 10.08.2015 which was not replied to. Thereafter, the application under Section 21 of the DSE Act dated 20.08.2015 came to be filed. Vide the impugned order, the petitioner was directed to pay an amount of Rs.2,40,000/- along with Rs.15,000/- compensation to the respondent.

3. Learned counsel for the petitioner submits that the Authority erred in shifting the entire onus on proving the employer-employee relationship on the petitioner whereas the same had to be proved by the respondent and that no finding of fact was given by the Authority on this aspect. It is further submitted that the respondents' claims before the Authority were time barred.

It is further submitted that there is no delay in filing the present petition as the petitioner was not aware of the passing of the impugned order since after appearing initially, he was never notified of the next date in the proceedings and only came to know about passing of the impugned order upon receiving the warrants of attachment in the execution proceedings in the year 2024.

4. I have heard learned counsel for the petitioner and gone through the record.

5. At the outset, it is noted that the present petition has been filed after a huge delay of more than seven years. The impugned order pertains to 2017 whereas the present petition came to be filed in 2025. A perusal of the impugned order would show that in the proceedings before the Authority, summons dated 30.12.2015 had been duly issued to the petitioner, consequent to which the petitioner had entered appearance before the Authority on 26.05.2016. The petitioner filed a cryptic reply in which, on



one hand he claimed that he did not know the respondent and had no transaction with him, while on the other hand he claimed that the respondent had to pay petitioner's wife Rs.5,000/- which he didn't pay despite reminders and rather threatened and harassed his wife. While the respondent had examined himself and also relied upon documents such as demand notice, proceedings held before labour inspector and his statement by way of affidavit, the petitioner inexplicably chose not to cross examine the respondent. The petitioner also failed to lead any evidence on its part to substantiate the claims made in the reply.

6. The petitioner was clearly aware of the existence of the proceedings before the Authority and in fact, had participated in the same, to the extent of filing his reply. For reasons best known to the petitioner, he undertook no cross examination of the respondent, nor led any evidence in support of his own case. In such a scenario, no fault can be found to lay in the Authority's reasoning. The petitioner also failed to reply to the demand notice and before the Authority filed a short and cryptic reply and did not diligently pursue the matter afterwards. Once the petitioner had notice of the proceedings, it was his responsibility to track its progress and the lapses and laches on his part cannot be condoned. The justification offered in approaching this court after colossal delay is completely unsatisfactory.

7. As a result, the petition is dismissed along with pending applications.

**MANOJ KUMAR OHRI
(JUDGE)**

MAY 2, 2025

ry
(corrected and released on 15.05.2025)