

\$~7

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

+ W.P.(C) 3100/2020

AADHAAR GAUR Petitioner

Through: Mr. Braj Kishore Roy, Adv.

Versus

STATE (NCT OF DELHI) & ORS. Respondents

Through: Mr. Ramesh Singh, Sr. Adv. with Mr.
Dhananjaya Mishra, Adv. for GNCTD.
Mr. Amit Mahajan, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **13.05.2020**

[VIA VIDEO CONFERENCING]

CM No.10767/2020 & CM No. ____/2020 (both for exemption) & CM No.10768/2020 (for exemption from filing court fee)

1. Allowed, subject to just exceptions and in terms of prevalent rules.
2. The applications are disposed of.

W.P.(C) 3100/2020

3. The petitioner, a student of law and 21 years of age, has filed this Public Interest Litigation (PIL) seeking quashing of the Notification dated 3rd May, 2020 of the Government of NCT of Delhi (GNCTD) to the extent permitting sale of liquor in Delhi.

4. The counsel for the petitioner has at the outset only has stated that he is aware of the order dated 11th May, 2020 passed in W.P.(C) No.3088/2020 and in other writ petitions, also filed by way of PIL and claiming the same relief as

claimed in this petition, but has the following additional contentions to make and which were not considered in the hearing of the aforesaid petitions:

- (i) that sale of liquor in this prevalent time of Covid-19 is injurious to the society in general;
- (ii) that the reason which prevailed in the order dated 11th May, 2020 was that taxation on sale of liquor is an important component of the revenue of GNCTD; however in the report of the Comptroller and Auditor General of India (CAG) of last year, it was reported that GNCTD has a revenue surplus; therefore, GNCTD does not require the revenue from sale of liquor and on which ground the relief was denied in the other writ petitions;
- (iii) that the consumption of liquor in heavy amount reduces the immunity of the consumer thereof, making him more likely to catch infectious diseases; report of World Health Organisation (WHO) to the said effect is waived during the hearing;
- (iv) that consumption of liquor is also generally done in groups/gatherings and which would again be in breach of Social Distancing norms and would increase the risk of transmission of Covid-19; and,
- (v) that the consumption of liquor is even otherwise injurious to health and affects the social behaviour of a person.

5. Per contra, the counsel for the respondent No.3 Union of India has reiterated, as also stated on 11th May, 2020, that a petition claiming the same

relief/interest was dismissed by the Supreme Court and thus petitions before this Court are not maintainable.

6. The counsel for the respondent No.1 GNCTD has, in addition to what was contended on 11th May, 2020 and recorded in the order of that date, referred to ***Khoday Distilleries Ltd. Vs. State of Karnataka*** (1995) 1 SCC 574 to contend that the Supreme Court has authoritatively held that though there is no fundamental right to sale or consumption of liquor but the same can be controlled by the State. It is contended that it is a matter of public policy and it is for the State to take a decision thereon.

7. The counsel for the petitioner in rejoinder has contended that what has been held by the Supreme Court would not hold good in the prevalent circumstances.

8. It may be noticed that the legal age for consumption of alcohol as far as Delhi is concerned is 25 years and the petitioner is aged about 21 years.

9. We have enquired from the counsels for the respondent Union of India and respondent GNCTD, whether in pursuance to the order dated 11th May, 2020 any decision with respect to the online sales or with respect to home delivery of alcohol, been taken. It is also enquired, whether not in pursuance to the order of the Supreme Court at least one State has commenced online sale of liquor to prevent crowding outside the liquor vends.

10. The counsel for the respondent Union of India states that several States have commenced online sale of alcohol.

11. The counsel for the respondent GNCTD assures that the decision by the GNCTD would definitely be taken on or before 15th May, 2020.

12. Having considered the contentions of the counsel for the petitioner, we do not find any need or case made out to take a different view than that taken in the order dated 11th May, 2020. Though the counsel for the petitioner contends that the submissions as made by him today were not considered on 11th May, 2020 but all the said factors were considered and debated during the hearing, though may not be recorded in the order since the Supreme Court had to take a decision; only constructive suggestions which could help the GNCTD in taking a decision were recorded in the order aforesaid.

13. This petition is also thus liable to be dismissed and is dismissed but binding the GNCTD to take a decision as assured.

RAJIV SAHAI ENDLAW, J.

SANGITA DHINGRA SEHGAL, J.

MAY 13, 2020

‘bs’