



**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO Ref:

CO/3240/2014

In the matter of [an application for Judicial Review]

The Queen on the application of JASBINGER SINGH SARAI

versus

LONDON BOROUGH OF HILLINGDON

On the application for

Following consideration of the documents lodged by the claimant

Order by the Honourable Mr Justice Mostyn on 17 July 2014

1. The interim steps decisions of 23 May 2014 and 11 June 2014 concerning the licence of the Victoria Public House, 32 North Hyde Road, Hayes UB3 4NE are stayed until determination of the application for permission to seek judicial review or further order in the interim.
2. The order at para 1 above shall be reconsidered at the permission determination or at an earlier hearing on paper pursuant to para 3 below
3. There shall be liberty to the defendant or the Commissioner of the Metropolitan Police to apply for an earlier hearing on paper to vary or discharge the order at para 1 above
4. This order shall be served on the Commissioner of the Metropolitan Police as an interested party and he shall be at liberty to make written submissions for the purposes of the permission determination.

REASONS

5. The law concerning the award of interim injunctions requires the court to have regard to (a) the underlying merits of the main claim and (b) whether any irreparable damage would be caused were the injunction not to be granted.
6. As to the merits I say no more than it seems to me that it is arguable that the claim would be arguable at the permission hearing. Certainly the statutory provisions concerning the evanescence (or otherwise) of interim steps is unhappily framed and has given rise to inconsistent judicial decisions. The controversy ought to be resolved. For what it is worth it seems to me that the approach of Dingemans J is logical.
7. Further it does seem as though the procedure adopted on 23 May 2014 was questionable to say the least.
8. If the interim steps are not lifted pro tem it seems highly likely that the claimants will suffer irreparable and severe economic damage.

Victoria Mostyn

Signed

Sent to the claimant, defendant and any interested party / the claimants, defendants, and any interested party's solicitors on:

17 JUL 2014



**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO Ref:3240 /2014

In the matter of an application for Judicial Review

The Queen on the application of
SARAI
versus
London Borough of Hillingdon

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant [and the Acknowledgement(s) of service filed by the Defendant and / or Interested Party]

Order by the Honourable Mr Justice Collins

Permission is hereby refused.

Reasons:

1. While the papers were put before me as a result of the defendant's application to set aside Mostyn J's order, it was obviously sensible to consider whether permission should be granted. I have decided that it should not and so the order of Mostyn J is inevitably discharged.
2. I have sympathy with the concerns about the conduct of the 23 May 2014 hearing. However, the committee for reasons which cannot be said to be arguably unlawful decided on 11 June 2014 that the licence should be revoked. This was based not only on serious crime but a breach of the licence conditions by public nuisance.
3. The legislation is badly drafted and is by no means clear. Whatever the true construction, there clearly should be a procedure which enables there to be a possibility of suspending the effect of a determination or of any interim order pending appeal. Section 53B(1) enables an interim order to be made 'pending the determination of the review', but s.53C(2)(c) makes clear (if it is to be given any sensible meaning) that such an interim order may extend to when the determination comes into effect. However, s.53V(2)(b) enables the committee to modify any interim order by imposing different and perhaps less onerous measures. In this case it decided to revoke the licence so that the suspension would inevitably continue in force. The committee clearly also decided that the licence should continue to be suspended. That it was on whatever is the true construction of the statutory provisions entitled to do.
4. There is undoubtedly a serious lacuna in the legislation since it was in my view be disproportionate in terms of Article 1 Protocol 1 if there were no power to suspend an adverse decision pending appeal or a fortiori no power to give immediate effect to a decision that the application under s.53A was not made out albeit an interim order had been made. S.53C(2)(c) does indeed seem to be an unnecessary provision since s.53B(1) makes clear that interim steps are what they say, namely steps taken pending determination and once a determination has come into effect they will automatically lapse. However, it must be assumed that Parliament meant s.53C(2)(c) to have some effect and in my judgment it only makes sense if it implies and must enable justice to be done carry within it by the words in brackets a power to vary or indeed to remove any interim steps pending the expiry of 21 days or any appeal.
5. If the magistrates have no power to suspend, as to do justice they should have, it is clearly essential that a hearing takes place as soon as possible and the magistrates court must pull out all stops to ensure a speedy hearing.
6. I recognise that the provisions are far from clear and it may be a judicial decision is needed. But this is the wrong case since it is clear beyond doubt that for good reason the committee decided that the suspension should remain pending appeal. This therefore is not the case for the matter to be determined since the facts are against the claimants.

Signed: Sir Andrew Collins

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date): **27 AUG 2014**

Solicitors:

Ref No. **CON / PKD / JR / SARAI**

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court, you must complete and serve the enclosed FORM within 7 days of the service of this order - CPR 54.12