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2026:DHC:10419-DB

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

Date of Decision: 23rd November, 2026
Uploaded On: 25th November, 2026

\# **CNR No. DLHC013421432017**

\+ **W.P.(C) 7068/2017, CM APPL. 26043/2023, CM APPL. 5429/2024, CM. APPL. 80352/2026 & CM. APPL. 80353/2026**

PRABHAKAR SINGH PAL AND ORS .....Petitioners

Through: Ms. Anjana Gosain, Adv.
Mr. Manu Padalia with Mr. Ujjwal Chaudhary, Advs. for P-19

versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Vikrant Nilesh Goyal, Mr. Inderpreet Singh, Mr. Kunal Dixit, Advs.
Mr. Rakesh Kumar SPC with Mr. Sunil Adv.

7.

\# **CNR No. DLHC014160412017**

\+ **W.P.(C) 7645/2017 & CM APPL. 36677/2024**

ASHOK KUMAR & ORS. .....Petitioners

Through: Ms. Anjana Gosain, Adv.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Vikrant Nilesh Goyal, Mr. Inderpreet Singh, Mr. Kunal Dixit, Advs.
Mr. Rakesh Kumar SPC with Mr. Sunil Adv.

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CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DINESH BHATT

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petitions have been filed by the Petitioners under Article 226 of the Constitution of India, *inter alia*, assailing the Clauses 9 and 9.3 of the *'Policy for Archaeological Survey of India Photographers to perform within Centrally protected Monuments'* dated 24th May, 2017 bearing ***Notification No. F.No. 29/5/2015-M (Pt.)***, issued by the Archaeological Survey of India, Ministry of Culture *(hereinafter, 'impugned policy')*.

3. The Petitioners in the present petitions are various photographers, who were rendering their services as licenced photographers of the Archaeological Survey of India *(hereinafter, 'ASI')* at the *Taj Mahal*.

4. Their services were being availed of by tourists visiting the *Taj Mahal* for the purpose of having themselves photographed within the monument. The details of the said Petitioners/photographers are as under:

(i) In ***W.P.(C) 7068/2017***, initially, there were 55 Petitioners and the said memo of parties was amended from time to time. Finally, as per the amended memo of parties dated 30th August, 2025, the following 24 persons are the Petitioners/photographers:

S.No.	Name of the Petitioners/Photographers
1.	PRABHAKAR SINGH PAL S/O LATE SHRI SURENDER

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	SINGH PAL
2.	MOHD. ASHRAF QADRI
3.	JAI NARAYAN SHIVHARE S/O LATE SHRI K.N. SHIBHARE
4.	NIHALCHAND S/O LATE SHRI THAL RAM
5.	MOHD. KHALIL S/O MOHD. NASIR
6.	PHALGUNAN PG S/O SHRI GOP ALAN
7.	SHAHBUDDIN S/O MOHD. ISHAQ
8.	IDREES KHAN S/O LATE SHRI NA WAB KHAN,
9.	SATISH KUMAR S/O LATE SHRI RAM BABU
10.	NARENDRA SINGH S/O LATE SHRI PRAT AP SINGH,
11.	HEMANT KUMAR RAI, S/O SHYAM LAL RAI,
12.	MOHAN SINGH, S/O LATE MANIK CHAND,
13.	HEMRAJ SINGH, S/O LATE MANIK CHAND,
14.	DINDAYAL SHARMA S/O LATE NA W AL KISHORE SHARMA
15.	KHEMCHAND S/O LATE SHRI CHUNNI LAL,
16.	RAJENDRA KUMAR SHARMA S/O DASS RAM,
17.	NAZAMUDDIN S/O LATE SHRI FAZAL UDDIN,
18.	KESHAB SINGH SOLANKI, S/O RAM SINGH SOLANKI,
19.	BHUWAN CHANDRA PANT S/O: LATE SHRI K.D. PANT
20.	TAJUDDIN S/O SHRI NIJAMUDDIN
21.	TAHIR KHAN S/O SHRI JAMIL KHAN
22.	MADAN MOHAN S/O SHRI DURGA PRASAD

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23.	ARUN KUMAR GUPTA S/O SHRI RAM DUTT GUPTA
24.	VIRENDRA KUMAR GUPTA S/O SHRI SURESH CHAND GUPTA

(ii) In ***W.P.(C) 7645/2017***, initially, there were 64 Petitioners and the said memo of parties was amended from time to time. As per the latest amended memo of parties dated 30th August, 2025, the following 13 persons are the Petitioners/photographers:

S.No.	**Name of the Petitioners/Photographers**
1.	ASHOK KUMAR S/O OM PRAKASH
2.	MARGOOB KHAN S/O MOHD. AYUB KHAN
3.	SABIR KHAN S/O BUNDU KHAN
4.	MANIK CHANDRA S/O BURE LALA
5.	ABDUL ZABBAR S/O ABDUL SATTAR
6.	MADHO SINGH S/O RAM SINGH
7.	BABU LAL RATHORE S/O ANGAL LAL
8.	ABDUL HAFIZ KHAN S/O ABDUL LATEEF KHAN
9.	PREETAM SINGH S/O RAM PRASAD
10.	GYANENDRA KUMAR RATHORE S/O B. L. RATHORE
11.	OM PRAKASH S/O SHRI MISRI LAL
12.	GAJENDRA KUMAR PATHAK S/O SHRI MAHADEV PRASAD PATHAK
13.	MAHENDRA SINGH RATHORE S/O SHRI RAM SWAROOP RATHORE

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5. The challenge in the present two petitions is to the impugned policy framed by the ASI, whereby the ASI has sought to restrict the age limit for the photographers who can render their services. The relevant clauses of the impugned policy is set out below:

> ***"MINISTRY OF CULTURE***
> ***(Archaeological Survey of India)***
> ***Notification***
> ***New Delhi, the 24th May, 2017***
> ***POLICY***
> ***Subject: The Policy of Archaeological Survey of India Photographers to perform within Centrally Protected Monuments.***
>
> ***xxxx xxxx xxxx xxxx***
>
> ***9. Renewal of license upon attaining 60 years:***
>
> *9.1 After attaining the age of 60 years the ASI licensed photographer shall have to undergo a Medical Fitness test and obtain a certificate from a Registered Medical Practitioner (RMP) certifying that he is both physically and mentally fit to perform duties of a licensed photographer, before renewal of license.*
>
> *9.2 No renewal of license of a licensed photographer who has attained the age of 60 years shall be granted without such fitness test and the necessary medical certificate.*
>
> ***9.3 The retirement age for Licensed Photographers shall be 65 years.***
>
> *9.4 A licensed photographer seeking to renew his license after attaining 64 years of age shall be deemed to have been licensed for the balancing remaining*

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> *period of time till he attains 65 years of age, whether or not such condition is specifically mentioned in the license at the time of such renewal or in the renewed license."*

6. The case of the Petitioners is that he ASI had conducted tests, pursuant to which licences were granted to the Petitioners, after satisfying various eligibility conditions, including the requisite years of experience and the requirement that their shops being more than five years old, etc. The Petitioners have been duly licensed by the ASI for several years to render their services as photographers at the *Taj Mahal*, and that their licences have been renewed from time to time.

7. According to the Petitioners, only 40 licences were initially issued, which were renewed in 1984, taking the total number of licensed photographers to 50. The said number increased from time to time, and by 1998, a total of 110 licences had been issued, including the 50 licences granted earlier.

8. Finally, pursuant to an Advertisement/notice dated 24th August, 2000, issued by the ASI, licences of the Petitioners were duly renewed in 2003, after examination and scrutiny of their applications by a committee constituted by the ASI. The Petitioners contend that they have been uninterruptedly rendering their services as photographers at the *Taj Mahal* since then.

9. The Petitioners are now aggrieved by the impugned policy, whereby a provision has been introduced to prescribe a retirement age of 65 years for photographers, which would, in effect, adversely affect the livelihood of the Petitioners, whose sole vocation is photography.

10. On behalf of the Petitioners, Ms. Anjana Gosain, ld. Counsel has made

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the following submissions:

(i) The prescription of a retirement age would deprive the Petitioners of their sole source of livelihood and adversely affect their families, who are dependent upon their professional earnings.

(ii) Photography is a professional service for which the ASI makes no payment to the Petitioners. They are independent professionals who compete with other similarly placed photographers, both young and old. The restriction of 65 years would, in effect, bar them from rendering their services as photographers at the monument.

(iii) Reliance is placed upon the judgment of the Supreme Court in ***B.P. Sharma v. Union of India & Ors. (2003) 7 SCC 309***, wherein, under similar circumstances concerning tourist guides, the Supreme Court has taken a view against the imposition of a retirement age.

(iv) Under rule 8(d) of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959 *(hereinafter, 'rules, 1959')* which empowers the ASI to grant licences, tourist guides and photographers are similarly placed. Thus, fixing an age limit for photographers, who also do not require any specific physical fitness, is discriminatory and arbitrary.

(v) Thus, Clause 9.3 in the impugned policy, prescribing the retirement age of 65 years is violative of the Petitioners' fundamental rights under Articles 19(1)(g) and 15 of the Constitution of India and also affect their right to life under Article 21 of the Constitution of India, as their livelihood would be jeopardised. Accordingly, the Petitioners seek quashing of the said clauses in the policy.

11. On the other hand, Mr. Vikrant Nilesh Goyal, ld. Counsel and Mr.

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Rakesh Kumar, ld. Counsels for the ASI and the Government have made the following submissions on behalf of the Respondents:

(i) In the absence of a prescribed retirement age, younger photographers would not get an opportunity to render their services at the Taj Mahal monument, resulting in overcrowding and a lack of space for tourists.

(ii) It is submitted that, presently, about 500 photographers are licensed to take photographs at the *Taj Mahal* and continuation of the licences of older photographers would hamper the induction of younger blood as photographers in the monument.

(iii) Further, several licensed photographers also send their nominees into the monument to render photography services, instead of undertaking the work themselves. Such photographers are also stated to be not fully conversant with the technological advancements in photography and, therefore, may not be able to render their professional services at the monument in an efficient and modernised manner.

(iv) Thus, prescribing an upper age limit is intended to accommodate younger professionals and provide them with an opportunity to render photography services at the *Taj Mahal*, which is a world-renowned monument.

12. The Court has heard the ld. Counsels for the parties.

13. The relevant clauses of the impugned policy i.e., Clause 9, has been extracted hereinabove. In terms of the said policy, photographers, as a professional class, are required to obtain licences to render their services at the *Taj Mahal* monument.

14. As per Clause 9 of the impugned policy, upon attaining the age of 60

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years, licensed photographers are required to undergo a medical fitness test and obtain a certificate from a registered medical practitioner certifying that they are mentally and physically fit to perform their duties as licensed photographers, for the purpose of renewal of licenses.

15. The renewal of the licences is, therefore, subject to the photographers undergoing the prescribed fitness test and furnishing the requisite medical certificate.

16. However, Clause 9.3 of the impugned policy also prescribes 65 years as the retirement age for licensed photographers.

17. The question that arises for consideration is whether the prescription of an upper age limit for retirement of photographers is valid or not.

18. A similar issue came to be considered by the Supreme Court in ***B.P. Sharma (Supra)***, in the context of tourist guides.

19. In the said judgment, the Supreme Court clearly observes that the nature of the licence granted by the ASI is merely one of access to the monument. Beyond that, the professionals have to compete amongst themselves, and show their technical competence and fitness to the tourists, who wish to avail of their services.

20. However, insofar as the fixation of the upper age limit of 65 years on the photographers is concerned, the Supreme Court observed as under:

> *"14. The right which is guaranteed to all citizens under Article 19(1)(g) of the Constitution of India is to practise any profession or to carry on any calling, trade or business. Clause (6) of Article 19, however, places a restriction that nothing would prevent the State from making any law imposing reasonable restrictions in exercise of the right in the interest of the general public.* ***Sub-clauses (i) and (ii) further provide that***

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professional and technical qualifications, as may be thought necessary for practising the profession, can always be prescribed and exclusion of carrying on of any calling, trade or business etc. is also envisaged which is also carried on by a State or by a corporation owned and controlled by the State*. Subject to the above noted restrictions the valuable right as provided under Article 19(1)(g) is available to all the citizens who are free to choose any trade, business, calling or profession etc. It obviously, also includes the manner and terms in which they will carry on their profession, but again subject to reasonable restrictions which may be thought necessary by the State in the interest of the general public. On the other hand, once a citizen voluntarily chooses to join government service or any other service, he would obviously be free to do so but he would be bound by the terms and conditions of the service as may be provided under the law or by contract of service.*

15. The freedom under Article 19(1)(g) can also be completely curtailed in certain circumstances e.g. where the profession chosen is so inherently pernicious that nobody can be considered to have a fundamental right to carry on such business, trade, calling or profession like gambling, betting or dealing in intoxicants or an activity injurious to public health and morals. It may be useful to refer to a few decisions of this Court on the point at this stage viz. in Saghir Ahmad v. State of U.P. [AIR 1954 SC 728 : (1955) 1 SCR 707] and J.K. Industries Ltd. v. Chief Inspector of Factories and Boilers [(1996) 6 SCC 665] . The main purpose of restricting the exercise of the right is to strike a balance between individual freedom and social control. The freedom, however, as guaranteed under Article 19(1)(g) is valuable and cannot be violated on grounds which are not established to be in public interest or just on the basis that it is permissible to do so. ***For placing a complete prohibition on any professional activity,***

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there must exist some strong reason for the same with a view to attain some legitimate object and in case of non-imposition of such prohibition, it may result in jeopardizing or seriously affecting the interest of the people in general. *If it is not so, it would not be a reasonable restriction if placed on exercise of the right guaranteed under Article 19(1)(g). The phrase "in the interest of the general public" has come to be considered in several decisions and it has been held that it would comprise within its ambit interests like public health and morals (refer to State of Maharashtra v. Himmatbhai Narbheram Rao [AIR 1970 SC 1157 : (1969) 2 SCR 392]), economic stability (State of Assam v. Sristikar Dowerah [AIR 1957 SC 414]), stability of the country, equitable distribution of essential commodities at fair prices (Union of India v. Bhanamal Gulzarimal Ltd. [AIR 1960 SC 475 : 1960 Cri LJ 664]) for maintenance of purity in public life, prevention of fraud and similar considerations. On consideration of a catena of decisions on the point, this Court, in a case reported in M.R.F. Ltd. v. Inspector, Kerala Govt. [(1998) 8 SCC 227 : 1999 SCC (L&S) 1] has laid certain tests on the basis of which reasonableness of the restriction imposed on exercise of the right guaranteed under Article 19(1)(g) can be tested. Speaking for the Court, Saghir Ahmad, J. (as he then was), laid such considerations as follows: (SCC p. 233, para 13)*

> *"(1) While considering the reasonableness of the restrictions, the court has to keep in mind the directive principles of State policy.*
>
> *(2) Restrictions must not be arbitrary or of an excessive nature so as to go beyond the requirement of the interest of the general public.*
>
> *(3) In order to judge the reasonableness of the*

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restrictions, no abstract or general pattern or a fixed principle can be laid down so as to be of universal application and the same will vary from case to case as also with regard to changing conditions, values of human life, social philosophy of the Constitution, prevailing conditions and the surrounding circumstances.

(4) A just balance has to be struck between the restrictions imposed and the social control envisaged by clause (6) of Article 19.

(5) Prevailing social values as also social needs which are intended to be satisfied by restrictions have to be borne in mind. (See State of U.P. v. Kaushailiya [AIR 1964 SC 416 : (1964) 4 SCR 1002 : (1964) 1 Cri LJ 304] .)

(6) There must be a direct and proximate nexus or a reasonable connection between the restrictions imposed and the object sought to be achieved. If there is a direct nexus between the restrictions and the object of the Act, then a strong presumption in favour of the constitutionality of the Act will naturally arise. (See Kavalappara Kottarathil Kochuni v. States of Madras and Kerala [AIR 1960 SC 1080 : (1960) 3 SCR 887] ; O.K. Ghosh v. E.X. Joseph [AIR 1963 SC 812 : 1963 Supp (1) SCR 789] .)"

17. ***It is always better, nay, necessary too that the freedoms as guaranteed under the Constitution should be allowed to be enjoyed by the citizens to the fullest possible extent without putting shackles of avoidable cobweb of rules and regulations putting check and***

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restrictions in the enjoyment of such freedoms. We find no reasonable ground to put a condition of age bar, where after a guide may not be allowed to continue his profession as it does not fall in any of such categories which may justify placing such restrictions completely debarring him to act as guide. Curtailment of freedom must have some strong reasons and real nexus with the purpose sought to be achieved. It would not be imposed merely because it is permissible for the State to do so*."*

21. Thus, in terms of the aforesaid judgement, the Supreme Court was clear and categorical in holding that the imposition of an age restriction on tourist guides would be contrary to Article 19(1)(g) of the Constitution of India. A similar rule *i.e.*, Clause 17 of the instructions issued in 1979 by the Ministry of Tourism and Civil Aviation which provides that *"When a guide attains the age of 60 years the identity card issued to him/her will not be renewed further"*, was accordingly, struck down, as, in the opinion of the Supreme Court, tourist guides engaged in self-employment and private professions could not be subjected to such restrictions, particularly when curtailing their right to pursue their livelihood caused no harm to public interest. Thus, as per the apex Court, a similar restriction on tourist guides was held to be not permissible.

22. Coming to the issue concerning the Petitioners, who are licensed photographers, it would be apposite to examine Rule 8(d) of the Rules, 1959, which reads as under:-

> *"8.* ***Prohibition of certain acts within monuments.****— No person shall, within a protected monument,--*
>
> *(a) do any act which causes or is likely to cause damage*

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or injury to any part of the monument; or
(b) discharge any fire-arms; or
(c) cook or consume food except in areas, if any, permitted to be used for that purpose; or
(d) hawk or sell any goods or wares or canvas any custom for such goods or wares or display any advertisement in any form or show a visitor round or take his photograph for monetary consideration, except under the authority of, or under, and in accordance with the conditions of, a licence granted by an archaeological officer;]
(e) beg for alms; or
(f) violate any practice, usage or custom applicable to or observed in the monument; or
(g) bring, for any purpose other than the maintenance of the monument,
(i) any animal, or
(ii) any vehicle except in areas reserved for the parking thereof."

23. A perusal of Rule 8(d) of the Rules, 1959 would reveal that both photographers and tourist guides are licensed by the ASI under the said Rule.

24. Insofar as tourist guides are concerned, they may be required to accompany tourists, move around the monument and walk to various locations, which may involve considerable physical exertion. Even so, in the case of tourist guides, the prescription of 65 years as the retirement age has been struck down by the Supreme Court in ***B.P. Sharma (Supra)***.

25. Insofar as the Petitioners, who are photographers, are concerned, they may, on occasion, accompany tourist guides if the tourists wish to visit particular locations for photography. However, in most cases, photographers remain stationed at a particular location within the monument and render their professional services to tourists at that location itself. The level of physical

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fitness required for performing such services would, therefore, not be equivalent to that required of tourist guides and may, in fact, be considerably lesser.

26. The reasoning adopted by the Supreme Court in ***B.P. Sharma (Supra)*** would, therefore, apply with greater force to the case of the Petitioners. If an age restriction of 65 years was held to be impermissible even in the case of tourist guides, whose profession may involve greater physical exertion, there is no justification for imposing a similar restriction on the Petitioners, who are licensed photographers and whose professional services do not entail comparable physical demands.

27. Another aspect that needs to be noted is that with the increase in life expectancy levels, even at the age of 65, professionals are physically and mentally equipped to render their services. Sometimes it is even a necessity or compulsion for such senior citizens who are self-dependent. Skills such as photography do not require enormous physical labour and in fact their experience of being at the Monument for so long may act as an advantage to tourists and visitors. These photographers are not employees of the ASI – they are merely licensed by the ASI. They are self-employed persons, who ought to be permitted to work as long as their physical and mental faculties permit. In the field of business and even politics, persons who are much older than 65 continue to be at the helm of affairs and their age is not a deterrent but in fact a positive feature.

28. The ASI is, however, fully entitled under the impugned policy to ensure that licensed photographers undergo the requisite physical fitness test and furnish the medical certificates prescribed under Clause 9.1 of the impugned policy. However, subject to the Petitioners undergoing the prescribed medical

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fitness test and furnishing a medical certificate from a Registered Medical Practitioner, the prescription of 65 years as the upper age limit for photographers would be discriminatory, particularly when the ASI does not employ these photographers. They are independent professionals who compete with other duly licensed photographers rendering services at the monument.

29. Under these circumstances, the ASI would not be entitled to curtail their livelihood in this manner, particularly when the Petitioners have no other professional skill or vocation apart from photography, which they have been pursuing for the last 30 to 40 years.

30. This Court is, therefore, of the opinion that, in view of the decision of the Supreme Court in ***B.P. Sharma (Supra)***, the prescription of 65 years as the upper age limit for photographers is discriminatory and contrary to law, as held in the case of tourist guides. The age restriction imposed under Clause 9.3 of the impugned policy adversely affects the right to livelihood of the Petitioners and, therefore, deserves to be quashed.

31. However, insofar as the concerns expressed by the ASI regarding the nomination of third parties by licence holders are concerned, the same would be completely barred. If any licensed photographer is found either permitting another person to use his licence or sub-licensing the same in any manner, the licence shall be liable to be withdrawn with immediate effect.

32. In addition, the Petitioners, who are photographers, would also be liable to undertake and undergo any refresher course that may be conducted by the ASI for the purpose of upskilling themselves and ensuring that they render high-quality services to tourists within the monument.

33. Further, if the ASI decides to conduct any test for photographers, the

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Petitioners shall also be liable to appear in and qualify the same.

34. Insofar as the Petitioners in whose cases nominees have already been permitted pursuant to orders passed by this Court are concerned, such nominees shall be permitted to continue, only in cases involving license holders with disabilities. However, in the case of nominees of the license holders without disabilities, no such permission shall be granted.

35. The ASI is also at liberty to conduct any physical fitness test or medical examination of the photographers after they attain the age of 65 years.

36. Subject to the aforesaid conditions, Clause 9.3 of the impugned policy pertaining to affixing the retirement age of the photographers at 65 is quashed. The licenses of the Petitioners which are stated to be renewed till today, shall be renewed for the rest of the year and thereafter shall be renewed annually.

37. The present petitions are disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

DINESH BHATT
JUDGE

NOVEMBER 23, 2026/ss/sm