

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) No.7829/2009

Date of Decision: October 27, 2010

NARENDER KUMAR ..... Petitioner  
through Mr. B.L.Wali, Advocate  
  
versus

MCD & ANR ..... Respondents  
through Ms. Mini Pushkarna, Advocate for  
respondent No.1.  
Ms. Sangeeta Chandra, Advocate for  
respondent No.2.

**CORAM:**  
**HON'BLE MISS JUSTICE REKHA SHARMA**

1. Whether the reporters of local papers may be allowed to see the judgment? No
2. To be referred to the reporter or not? No
3. Whether the judgment should be reported in the 'Digest'? No

**REKHA SHARMA, J. (ORAL)**

The petitioner has been allotted Car / Scooter parking site behind D.T.C. Bus Depot, Wazirpur, Netaji Subhash Palace by respondent No.1 - the Municipal Corporation of Delhi vide Provisional Offer Letter dated October 16, 2006. The allotment has been made for a period of five years on the condition that the contract shall be renewed after the expiry of every one year with enhancement of monthly licence fee by 5%. It is also a term of the allotment that the Commissioner, Municipal Corporation of Delhi will have the sole

discretion to terminate the contract at any time without assigning any reason or without any previous notice in public interest.

It so happened that after the allotment was made in favour of petitioner by respondent No.1, respondent No.2, i.e. the Delhi Development Authority also invited tenders to allot parking space and what is of significance is that the tenders so invited were in respect of the same site which stood already allotted to the petitioner. Feeling aggrieved by the action of respondent No. 2, the petitioner filed the present writ petition in which this court passed order dated April 16, 2009 and thereby though it permitted the Delhi Development Authority to open the tender for allotment but restrained it from allotting the same till further orders of the Court.

It is the case of the petitioner that the Municipal Corporation of Delhi having allotted the site to him for parking purposes for a period of five years, he is entitled to use the same till the expiry of the said period without interference or hindrance from either the Municipal Corporation of Delhi or by the Delhi Development Authority.

On the other hand, it is the case of respondent No.1 that the parking site which has been allotted to the petitioner belongs to the Delhi Development Authority and that the allotment in favour of the petitioner was made under a misconception. It is also the case of respondent no. 1 that the Commissioner Municipal Corporation of Delhi has discretion to terminate the allotment at any time without assigning any reason. It is, however, not disputed that so far as the Commissioner has not exercised his discretion of cancelling the allotment without assigning any reason.

Assuming as contended that respondent No.1 was labouring under a misconception that the site in question belonged to it whereas it actually belonged to the Delhi Development Authority , I see no reason why the petitioner who is a bonafide allottee of the site should be made to suffer for the fault of respondent No.1 or respondent no.2. He had submitted a tender pursuant to a tender notice of the Municipal Corporation of Delhi and the same having been accepted by it, neither the Delhi Development Authority nor the Municipal Corporation of Delhi has any right to interfere in his running the site in terms of the of the Provisional Offer Letter dated October 16, 2006, unless of-course he is found violating any of the terms of the said letter. Having said so, I may make it clear that I am making no comment on the discretion of the Commissioner, Municipal Corporation of Delhi to cancel the allotment made to the petitioner without assigning any reason or without any previous notice in public interest. If the Commissioner exercises any such discretion it will be open to the petitioner to challenge the same in appropriate proceeding, but so long as no such order has been passed, the petitioner shall have the right to run the parking site without hindrance or interference from either respondent No.1 or respondent No.2 in terms of the Provisional Offer Letter dated October 16, 2006.

The writ-petition is allowed.

**REKHA SHARMA, J.**

**OCTOBER 27, 2010**  
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