

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

Date of decision: 8th October, 2010.

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W.P.(C) No.6563/2010

SMT. PARVEEN SURI **PETITIONER**

Through: Mr. Jawahar Chawla, Adv.

Versus

MCD & ANR. **RESPONDENTS**

Through: Mr. Mukesh Gupta with Mr. Sumit Gupta, Advocates with Mr. Satya Varat (H.C.).

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. Whether 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

RAJIV SAHAI ENDLAW, J.

1. The counsel for the respondent MCD in compliance of the earlier order dated 27th September, 2010 has handed over in Court documents containing the procedure and criteria followed for allotment of plots in Sanjay Gandhi Transport Nagar, Delhi. On perusal of the same, it is not deemed necessary to call for the counter affidavit of the respondent MCD and the counsels have been heard finally on the writ petition.

2. The petitioner has filed this writ petition impugning the order dated

11th September, 2007 of the respondent MCD holding the petitioner ineligible for allotment of a plot in Sanjay Gandhi Transport Nagar, Delhi and seeking direction to the respondent MCD to allot a plot of land admeasuring 220 sq. mts. to the petitioner, as applied for by her on 31st March, 1984.

3. The petitioner had submitted the application dated 31st March, 1984 (supra) in response to the Scheme notified by the respondent MCD for allotting plots in a Transport Complex to be developed by it. The petitioner along with the application also deposited a sum of ₹25,000/- as earnest money deposit. There was delay in development of the said Complex. The petitioner in between, in the year 1992 changed her residence and notified the respondent MCD of the same. The respondent MCD in or about the year 2001 issued notices at the old address of the petitioner calling upon her to appear along with proof of being engaged in transport business. Public notices calling upon all the applicants/registrants to appear, were also published. The petitioner however did not appear before the respondent MCD and was accordingly not allotted the plot. The petitioner filed W.P.(C) No.6711/2005 in this Court. This Court finding that the respondent MCD had not given the notice at the changed address of the petitioner, vide order dated 20th April, 2006 disposed of the writ petition directing the petitioner to appear before the Director, Sanjay Gandhi Transport Nagar, Delhi along with all the documents and directed the MCD to determine the eligibility of the petitioner for allotment.

4. The MCD vide its order dated 20th August, 2007 after going through the documents submitted by the petitioner and after hearing the petitioner held that the petitioner had been dealing in the business of electrical items/repairs; that there is nothing to show that she was dealing in transport business and thus held the petitioner not entitled to allotment of plot in the Transport Nagar aforesaid.

5. The petitioner then filed W.P.(C) No.3431/2008 in this Court challenging the order dated 20th August, 2007 (supra) of the MCD. This Court being of the view that the petitioner had applied for allotment of a plot for workshop and not as a transporter and finding that the order dated 20th August, 2007 had not considered the said aspect, set aside the same vide order dated 12th January, 2010 and remanded the matter to the MCD for passing a fresh order.

6. It is in pursuance thereto an order dated 30th April, 2010 has been made by the MCD. Though from the body of the writ petition, it is clear that the petitioner in this writ petition seeks to challenge the order dated 30th April, 2010 but has in the prayer paragraph wrongly given the date of the order challenged as 11th September, 2007.

7. The MCD in the order dated 30th April, 2010 has noted that the proposal for setting up a Transport Nagar at Wazirabad was mooted in 1976 with the idea was to decongest the city by curtailing the movement of trucks and also by shifting workshops and godowns to the outskirts of the city;

ultimately the land for the said Transport Nagar was made available by the DDA and the project agreed to be executed on “No-Profit, No-Loss” basis and on ‘self financing pattern’; that the allotment of plots in the said Transport Nagar were to be made to the applicants subject to their eligibility being established; that the Transport Nagar is to accommodate those people who were engaged in transport and transport allied businesses after they were shifted from city areas. The order records that the petitioner has failed to prove that she was running a transport business. It was further held that though the petitioner had applied for a plot of land for a workshop but she did not qualify for the same also since she was not found to have been carrying on a transport allied business also.

8. The counsel for the respondent MCD has produced in the Court the Minutes of the Meeting held on 16th September, 1985 by the Chief Secretary, Delhi Administration regarding the said Transport Nagar. In the said meeting it was decided to constitute a screening committee so that only the *bona fide* transporters, workshop owners, sparepart dealers get allotment. The other documents handed over also reflect the same position.

9. The question which therefore arises is whether any ground for interference in writ jurisdiction is made out in the finding of the MCD that the petitioner had failed to establish that she was carrying on the business of a workshop allied to transport business.

10. The petitioner has placed before this Court also the documents which

had been placed before the MCD and on the basis whereof the decision impugned in this writ petition has been taken. However, from the said documents all that can be made out is, that the petitioner was/is carrying on business at Karol Bagh in the name of Suri Electricals. The rent receipts, registration under the Delhi Shops & Establishments Act, 1954 were in the name of Suri Electricals only. The bank account of the petitioner was also in the name of Suri Electricals. Purchase memos produced by the petitioner, are also in the name of Suri Electricals. However, in the copies of the letters written by the petitioner in the year 2006, on the letter heads, the name is stated as Suri Auto Electricals. There is no explanation as to how and when if at all the name was changed from Suri Electricals to Suri Auto Electricals. Though the order dated 12th January, 2010 in W.P.(C) No.3431/2008 was made on the premise that the claim of the petitioner was of carrying on a workshop and not of transport business but in the letter dated 15th May, 2006, the petitioner has claimed to be carrying on transport business and not the business of a workshop for transport vehicles.

11. The counsel for the petitioner has argued that since all automobiles also have electrical circuits, the petitioner carrying on business in the name of Suri Electricals, is eligible for allotment of a plot. I cannot accept the said position. All persons carrying on business of electrical goods and/or repair of electrical goods cannot be said to be carrying on business allied to transport merely because the transport vehicles also have an electrical circuit. Though undoubtedly there are workshops specializing in automobile

electrical works also but it was for the petitioner to establish before the respondent MCD and before this Court that it was engaged in the said business. There is nothing to show the said position. The purchase memos produced by the petitioner also do not show or establish that the petitioner was engaged in the business of automobile electrical works.

12. I have enquired from the counsel for the petitioner as to why the petitioner has not produced the documents showing employment of auto electric mechanics, agreement with transporters to carry out electrical works in the transport vehicles or document to show a regular course of activity of repairing of electrical circuits and components in automobiles. The counsel for the petitioner then contends that the business of the petitioner is of a small scale of repairing two wheelers and maximum three wheelers and not of transport vehicles and thus no such records are maintained. In my opinion, on the said statement of the counsel for the petitioner alone, the writ petition is liable to be dismissed. It is not in dispute that the Sanjay Gandhi Transport Nagar was established with the objectives aforesaid. When we talk of transport vehicles, what is generally understood is trucks/buses carrying on goods and passengers from one place to another and not private vehicles as two wheelers, scooters and auto-rickshaw. The purpose of the Transport Nagar on the outskirts was to prevent the entry of heavy vehicles in the city and to at the same time decongest the city of the workshops which the transport vehicles have to visit for their repairs, services, overhauling etc. The Sanjay Gandhi Transport Nagar, from the

documents produced was not intended for smaller private transport vehicles as three wheelers and two wheelers which by their very nature are required to be in the city and not to be on the outskirts of the city.

13. Personal experience shows that major component of the business of those dealing with auto electrical was of batteries used in the automobiles. It was put to the counsel for the petitioner as to why the petitioner if engaged in the business could not produce the documents of sale/purchase of automobiles batteries and/or of reconditioning the same and which also required storage of acid and certain other chemicals requiring licence. The counsel for the petitioner candidly admits that the petitioner was not carrying on any such activity.

14. In the circumstances, no case for interference with the order of the respondent MCD finding the petitioner to be ineligible for allotment of a plot in Sanjay Gandhi Transport Nagar is made out. The desire of the petitioner for a plot inspite of being not engaged in the business/allied business relating to transport is obvious. The rate/price at which the plots have been allotted/are being allotted is far lower than the market price and instances of trading in the plots are not unknown.

The writ petition is therefore dismissed. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

8th October, 2010/‘bs’