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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LPA 777/2011

MEERA SAINI

...Appellant

Through: Mr.Arvind Jain, Advocate

versus

GOVT. OF NCT OF DELHI & ORS.

...Respondents

Through: Mr.N.Waziri, Standing Counsel
(Civil) GNCTD with Mr.Prem Mishra,
Advocate
Mr.Anurag Kasana, Advocate for R-4

LPA 863/2011

SHYAM LAL & ORS.

...Appellants

Through: Mr.S.P.Sinha, Advocate

versus

GOVT. OF NCT OF DELHI & ORS.

...Respondents

Through: Mr.N.Waziri, Standing Counsel
(Civil) GNCTD with Mr.Prem Mishra,
Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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09.11.2011

1. As regards LPA No.863/2011, learned counsel for the appellants states that if directions are issued to the Government of NCT Delhi and/or such authority under it which has to take a decision on the policy pertaining to grant of

licenses to physically challenged persons in the ISBT Complexes, including the rate at which license fee is charged and the same to be applied, without discrimination, to physically challenged persons, and further would take a decision pertaining to change of trade, the appellants would have no residual grievance.

2. To appreciate the stand taken, it needs to be noted that a group of writ petitioners, some of whom were physically challenged and the others were ex-servicemen, joined together in a common action when they filed W.P.(C) No.5875/2007 pleading that at various Inter State Bus Terminals in Delhi, PCO Booths were allotted to physically challenged persons including ex-servicemen and grievance raised was that from one Seema Tiwari, a visually handicapped person, less monthly license fee was charged.

3. Disposing of the writ petition, the learned Single Judge held that ex-servicemen and physically challenged persons would be two distinct groups and thus permitted the physically challenged persons to make a representation qua license fee charged from them.

4. The other issue raised in the writ petition, that the business of running a Public Call Booth i.e. a telephone at a public place had become redundant in today's environment, where virtually every city bread person carries a mobile phone, and hence the need to change the permissible trade from the licensed premises, the learned Judge has likewise permitted the physically challenged persons as also ex-servicemen to make an appropriate representation.

5. We see merit in the contention urged by learned counsel for the appellants that the right to make a representation would be meaningless unless the respondents frame a policy pertaining to grant of licensed space to physically challenged persons in the various Inter State Bus Terminals in the Union Territory of Delhi and also with respect to the change in trade.

6. Sh.Nazimi Waziri, learned standing counsel for the Government of NCT Delhi concurs that in today's environment, to grant a license for running a PCO is to give not even peanuts and with respect to uniform application of a policy to a homogeneous group, learned counsel concedes that a transparent policy is the requirement of the day on all issues where the Government has an interface with the public.

7. Thus, LPA No.863/2011 stands disposed of issuing a direction to the respondents thereof that a policy be framed within 3 months from today pertaining to grant of licenses to physically challenged persons at the Inter State Bus Terminals in Delhi, which would include the terms of the license fee to be paid and permissible trade activity to be conducted. The entitlement of such writ petitioners i.e. the appellants who are physically challenged for being granted licenses or for extension of licenses already granted would be then taken as per the policy. Qua ex-servicemen, no relief can be granted save and except that the respondents would consider and take a necessary decision pertaining to the trade permissible from the licensed premises; wherever the license pertains to carrying on the trade of a PCO Booth.

8. As regards LPA No.777/2011, Meera Saini, a physically challenged person questions shop No.10 at the food court outlet at ISBT Kashmere Gate allotted to her as an alternative allotment after re-development of Inter State Bus Terminal at Kashmere Gate.

9. The issue of license fee raised by her, is not pressed, for the reason even she would be the benefit of a uniform policy decision which we have directed respondents to take as per the preceding paragraphs of the present order.

10. The only surviving issue which she raises is to the accessibility to the shop in question and for which she urges that the ramp constructed to enable her to access the shop is not adequate.

11. To appreciate her grievance, the topology of the ISBT complex, after its reconstruction, needs to be noted. The existing ground level of the complex is about 6 to 8 feet below the plinth level of the adjoining and abutting land. The food court in which shop No.10 has been allotted to Meera Saini is a row of shops on the outer periphery of the building within the precincts of the complex i.e. each shop opens towards the vacant land in front. To reach the food court plaza, originally a flight of steps descended from the open area abutting the main building, leading into, if we may use the expression, an open courtyard space in front of the shops constituting the food plaza.

12. Under order of this Court i.e. dated 22.9.2011, the issue of the existence of a ramp was considered inasmuch as

the respondents pleaded that for any physically challenged person, to access the food plaza, a ramp was constructed.

13. The appellant denied the adequacy of the ramp and thus Mr.Meet Malhotra Sr.Advocate and Mr.Arun Pant Advocate were directed to visit the site and submit a report.

14. The report has been submitted and as per which the existence of the ramp has been affirmed but with respect to its location it is stated that the ramp is situated on the North-Eastern side of the food court and that the appellant and her husband, who is also a handicapped person, have to approach the ramp through an area where buses ply. The report also notes that a new ramp was being constructed on the South-West side.

15. Sh.Nazimi Waziri, learned counsel for the respondents, has produced photographs which show another ramp constructed on the South-West side, but the appellant's grievance still subsists who wants a shop to be allotted at the Inter State Bus Terminal at Anand Vihar.

16. This Court cannot direct any particular site to be licensed to the appellant.

17. We are of the opinion that as a result of the construction of the new ramp on the South-West side of the ISBT building, leading into the food court plaza, the difficulty of the appellant and her husband has been substantially mitigated, if not fully redressed.

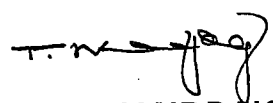
18. It has to be kept in mind that no ramp, exclusive for the appellant's use can be constructed. The ramp has to be so situated that not only the physically handicapped but even the

old and the infirm can use the same and further the ramp has to cater to all the shops on the ground floor of the ISBT complex, which open to the vacant land at the ground floor level.

19. Learned counsel for the appellant, Meera Saini seeks to question the license fee charged from Meera Saini as per the allotment letter dated 21.6.2011, but concedes that the said allotment letter and the license fee charged therein, was not the subject matter of challenge before the learned Single Judge and thus requests that the issue be kept open.

20. We dismiss LPA No.777/2011 but keep open the issue of license fee which respondents can charge from Meera Saini and guide her simultaneously not to litigate any further till the Government frames the necessary policy pertaining to handicapped persons being allotted, on license, space/shops in the various Inter State Bus Terminals in Delhi.

21. No costs.


(PRADEEP NANDRAJOG)
JUDGE


(S.P. GARG)
JUDGE

NOVEMBER 09, 2011
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