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

% Judgment delivered on: 11th February, 2022

+ W.P.(C) 13090/2021& CM APPL. 41295/2021

AUTO PARIVAR CHARITABLE

WELFARE SOCIETY & ANR.

..... Petitioners

versus

GOVT. OF NCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioners: Mr. Nikhil Nayyar, Senior Advocate with Mr. Amit Agrawal, Ms. Sugandha Batra, Mr. Divyanshu Rai, Mr. Rahul Kukreja, Ms. Radhika Yadav, Mr. Naman Khatwani, Advocates

For the Respondent: Mr. Rahul Mehra, Senior Advocate with Ms. Jyoti Mendiratta, Advocate, Mr. Satyakam, ASC and Mr. Chaitanya Gosain, Advocate for R-1

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

1. The hearing was conducted through video conferencing.

2. Petitioners seek quashing of advertisement dated 18.10.2021 and public notice dated 24.10.2021 whereby the Transport Department of Govt. of NCT of Delhi has invited online applications



for issuance of 4261 e-auto rickshaws.

3. Petitioners had sought quashing of the said advertisement primarily on the ground that advertisements did not explicitly specify the mode of allotment or the terms and conditions thereof.

4. Affidavit has been filed on behalf of Govt. of NCT of Delhi stating that the mode of allotment as is even apparent from the advertisement is by draw of lots.

5. Perusal of the advertisement shows that the expression used in the advertisement is '*Draw of Allotment*'.

6. Further, Mr. Rahul Mehra, learned Senior Counsel appearing for the respondent submits that decisions were taken on 03.09.2021 and 14.09.2021 with regard to the project and the mode and modalities of inviting online applications as well as the allotment much before the applications were invited by publication of advertisements on 18.10.2021 and 24.10.2021.

7. Petitioner which is a registered society and claims to be one of the leading societies in Delhi acting for the interest of auto-rickshaw drivers in the city and the present petition had been filed in the interest of the auto-rickshaw drivers in a representative capacity.

8. Mr. Nikhil Nayyar, learned Senior Counsel appearing for the



petitioner submits that as there is an upper limit fixed by the Supreme Court on the number of auto-rickshaws that can be permitted in Delhi and approximately 95000 auto rickshaws are already plying and 4261 e-auto rickshaws are sought to be allotted by this method, the concern of the petitioners is that the same should be allotted in a fair and transparent manner and there should be no cartelization or misuse of the scheme by renting out the same for commercial gain. He submits that the scheme is to benefit individual auto owners-cum-drivers to earn their livelihood.

9. Mr. Rahul Mehra, learned Senior Counsel appearing for the Government of NCT of Delhi also submits that the scheme is for the benefit of individual auto owners-cum-drivers to earn their livelihood and he submits that, without prejudice to the fact that the scheme is transparent, the Government is willing to suitably modify the scheme to make it more transparent and achieve its objective.

10. Additional affidavit dated 10.01.2022 filed by the Respondents lists out the decision taken on 03.09.2021 formulating a project called “*Livelihood Oriented Project*” which was followed by a further decision on the eligibility condition on 14.09.2021.

11. The project stipulates as under:

i. The project may be branded as “Livelihood Oriented



Project” and eligibility criteria of holding a valid driving license (LMV) only may be prescribed for this purpose. The applicants may be conveyed that it is expected from them to drive the autos themselves to earn their livelihood.

- ii. A lock-in period of one year may be prescribed during which vehicle may not be transferable except in case of death etc.*
- iii. On-line applications may be invited through the software to be developed by NIC.*
- iv. 4261 drivers may be chosen through computerized draw of lots. 1406 registrations may be made in favour of women drivers.*
- v. The successful applicants will be required to obtain PSV badge within three months of the allotment failing which it will be cancelled and may be offered to the next candidate.*
- vi. There will be no permit being electric autos in this case, hence, permit conditions will not be applicable in the present allotments. Conditions of registration may be prescribed similar to permit conditions i.e. dress, fare*



meter etc.

- vii. *A dealer-end eco-system will be created from where the allottee will be provided single window services at one place i.e. registration of E-auto, financing, PSV badge, fare meter etc.”*

12. As per the Additional Affidavit, the following Eligibility Conditions of the Project were approved by the competent authority on 14.09.2021:

“Eligibility Conditions:

- i. The applicant should be a valid driving license holder of Light Motor vehicle (LMV) or holder of TSR driving license and should have received their driving licence on or before 31.8.2021*
- ii. The applicant should not have any autorickshaw registered prior in his name.*
- iii. The applicant should not be a NPA/Bank defaulter in the past.*
- iv. The successful applicants will have to obtain a Public Service Vehicle (PSV) Badge, within 45 days of draw of allotment.*



- v. *33% of the total registrations i.e. 1406 e-autos will be made in favour of Women applicants.*
- vi. *In case, the women applicants are less than the reserved numbers, the balance e-autos will be allotted to general category.*
- vii. *Successful applicants will be chosen through a computerized software of NIC.*
- viii. *List of 4261 successful applicants will be published on website of this Department. A list of 426 waitlisted candidates will also be prepared.*
- ix. *Scrutiny of the eligibility of applicants will be made and the list of eligible candidates will be uploaded on the website to invite objections, if any, within 10 days of such notice. Allotment letters will be issued within 30 days of the last day of objection.*
- x. *The successful applicants will have to procure electric autos within sixty days of allotment letter failing which the department can consider the wait listed candidates for this purpose.”*



13. Though certain reservations were expressed by learned senior counsel for the petitioner about possible misuse of the allotment, however during arguments the same were resolved.

14. The Competent Authority also conveyed his approval and acceptance of the slight modifications in the project.

15. One issue pointed out by learned Senior Counsel for the petitioner was with regard to “*Lock-in Period*” as mentioned in Clause – ii of the Project.

16. Learned Senior Counsel for the petitioner submitted that the lock-in period of one year restricting the transfer of the e-auto rickshaw may not be a realistic period to prevent assignment of the benefit of the scheme to a non-deserving individual.

17. Learned Senior Counsel submits that in the earlier regime where permits were required; there was a mandate that the permit could not be transferred for a period of five years except in the case of the demise of the permit holder.

18. Learned Senior Counsel appearing for the respondent, under instructions, submits that the proposal of the petitioner is reasonable and has also been accepted by the competent authority.

19. Accordingly, Clause ii of the Project shall now read as under:



“ ii A lock-in period of five years may be prescribed during which vehicle may not be transferable except in case of death etc.”

20. Another concern pointed out by learned Senior Counsel for the petitioner was with regard to the eligibility condition iii which prescribes that the applicant should not be a NPA/Bank defaulter in the past.

21. It is pointed out by learned Senior Counsel for the petitioner that since no such condition was provided in the advertisement, applicants who may be a defaulter may get disqualified even though they may not be availing any bank facility for the present auto or may have become a defaulter on account present prevailing pandemic.

22. Learned Senior Counsel for the respondent, under instructions, submits that the competent authority has agreed to delete the said clause completely in view of the present prevailing pandemic. However, the grant of loan if any would be at the discretion of the financial institution based on its eligibility criteria.

23. Further concern raised by learned Senior Counsel for the petitioner is with regard to the 33% reservations made for women. It is submitted that out of the 1406 e-auto rickshaws that have been reserved for women applicants, only 743 applications have been



received and the balance 663 e-autos are proposed to be allotted to Delhi Metro Rail Corporation (DMRC) for being plied through the some operators or aggregators by women drivers.

24. It may be noticed that the original *eligibility condition vi.* was that in case the women applicants are less than the reserved number, the balance e-autos would be allotted to the general category. Said condition has been amended by the respondent. The amended condition reads as under: -

“vi. The LOI for the remaining 663 e-autos from the women quota will be allotted to the DMRC with the permission to operate these e-autos through an aggregator/operator with a further condition that the same shall be driven by only the women drivers deployed by DMRC as part of last mile connectivity in variation to earlier decision to revert the balance numbers to general category.”

25. Learned counsel for the parties have contended that as on date there are very few, rather negligible, number of women auto drivers. One of the reasons for the respondents receiving less number of applications could be the fact that there is nearly negligible number of women auto drivers in the city.



26. Accordingly, it is directed that before the balance 663 e-auto rickshaws from the women quota are allotted to the DMRC as proposed, Respondents should hold a second round and invite fresh applications for the balance 663 e-autos reserved for women and hold a special draw of lots.

27. If even after the second attempt there are some e-auto rickshaws remaining in the women quota, then the same may be allotted to DMRC to operate the same either directly or indirectly through some operators/aggregators ensuring that the same are driven only by women auto drivers.

28. Respondents have proposed that the colour scheme of the e-auto rickshaws that are reserved for women quota shall be a different colour i.e. Blue Lilac which would easily distinguish the e-auto rickshaw which is allotted under the women quota scheme so that it would be apparent in case there is a misuse of the same i.e. being driven by a male and not a woman auto driver.

29. Further respondents shall ensure that post allotment in the woman quota, transfer of e-auto rickshaw should be permitted subject to the restrictions of five years only to a woman auto driver.

30. The additional Affidavit further points out that, 20590 applications have been received and after scrutiny 2112 applications



(1941 from male applicants and 171 from women applicants) have been found to be deficient. The said list of 2112 deficient/defective applications would be displayed on the website of the Transport Department after draw of lots.

31. However, all the male applicants, including those applicants whose applications are deficient/defective would be included in the draw of lots. After the draw of lots, those applicants whose applications are deficient/defective would be granted time to remove the deficiencies/defects.

32. For the 743 women applicants, including 171 applicants whose applications are deficient/defective, no draw of lots would be held because the applicants are less than the quota of 1406. However, LOI would be issued only to those who rectify the defect or remove the deficiency within the stipulated time.

33. As per the scheme, a computerised draw of lots is to be held through randomization process. The result of the draw of lots of successful applicants as also the waitlisted applicant is to be displayed/uploaded on the website of the Transport Department.

34. For the purposes of true transparency, respondents are directed to display not only the names of the successful and waitlisted applicants but also their parentage and address.



35. It is further directed that that the driver identification/particulars along with his/her photograph would be mandated to be displayed conspicuously inside the vehicle.

36. The detailed procedural mechanism of the allotment and the Project has been explained in the Additional Affidavit. No further concerns have been raised by the Petitioners.

37. Further, for the purposes of completion of record, it may also be noticed that the Supreme Court of India in its order dated 15.12.2021 in W.P. (C) 13029/1985, titled *M.C. Mehta Vs. Union of India* has also favourably commented upon the subject advertisement issued by the Govt. of NCT of Delhi inviting applications for grant of registration for 4261 e-autos.

38. Petition is accordingly disposed of in the above terms.

39. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J

FEBRUARY 11, 2022/‘rs’