

\$~12.

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

+ LPA 466/2016 & CM Nos. 30652-30653/2016

SULTAN QURESHI & ORS.

..... Appellants

Through Mr. Bharat Bhushan Bhatia, Advocate.

versus

LT GOVERNOR OF DELHI & ORS.

..... Respondents

Through Ms. Mini Pushkarna, Standing Counsel,  
North DMC, Ms. Namrata Mukim, Ms. Anushruti,  
Advocates.

Mr. Arun Birbal and Mr. Sanjay Singh, Advocates  
for DDA.

Mr. Mahipal Singh Rajput & Mr. Nishant Shaira,  
Advocates for UOI.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MS. JUSTICE SUNITA GUPTA**

**ORDER**

% **26.08.2016**

The appellants herein were removed from Idgah in the year 2010. By way of Writ Petition (C) No. 5062/2016, they had prayed that the respondents, namely, Delhi Development Authority and the North Delhi Municipal Corporation should be directed to allot shops/*kharkas* to them at the slaughter house (abattoir) at Ghazipur.

2. The impugned order dated 2<sup>nd</sup> June, 2016 dismisses the said writ

petition on the ground that the Writ Court cannot issue a direction for framing a policy similar and identical to the policy decision in the case of Motia Khan Steel Merchants. It is not within the domain of the Court to issue guidelines for making a policy. Direction that the respondents must adopt the same policy cannot be given.

3. The impugned order records that the North Delhi Municipal Corporation had stated that the six petitioners, who are appellants before us, were granted trade licences for live stocks at Ghazipur, but as they had stopped paying fee and usage charges, the trade licences were cancelled. This fact is admitted and not disputed by the counsel appearing for the appellants.

4. Further, the East Delhi Municipal Corporation has brought out a fresh policy for revival of cancelled licences and two of the appellants, namely, Sultan Qureshi and Mohd. Naeem have applied for grant of the trade licence and their applications would be considered.

5. Learned counsel, during the course of arguments, had drawn our attention to the policy adopted and applied in the case of Motia Khan Steel Merchants. The said policy decision is dated 11<sup>th</sup> October, 1977. We agree with the learned single Judge that it is not for the Court to direct the

respondents to frame and adopt a particular policy. The policy decision relied upon by the petitioner was adopted in the year 1977. It was open to the respondents to adopt and apply a changed and new policy. Almost forty years have lapsed since the policy decision was taken in the case of Motia Khan Steel Merchants.

6. Learned counsel for the appellants has drawn our attention to the minutes of the meeting held on 4<sup>th</sup> March, 2013 under the Chairmanship of Additional Secretary, Urban Development, Nirman Bhavan. The said minutes record the factual narration regarding construction of the slaughter house (abattoir). The minutes do not create any interest and right in favour of the appellants.

7. It is accepted that the appellants were issued licences and were allocated area/space in Ghazipur. However, their licences were cancelled after they stopped paying the licence fee of Rs.500/- per year and user charges of Rs.10,000/- per month. As long as the appellants had paid the licence fee and user charges, they were allowed to work and carry on trade from the earmarked area allotted to them. As noted above, the East Delhi Municipal Corporation has now floated another scheme pursuant to which two of the appellants have applied for renewal of their licences.

8. We agree with the reasoning given by the learned single Judge that this is not a case which requires interference in exercise of jurisdiction under Article 226 of the Constitution of India. The respondents after due consideration and based on the past experience, had framed the policy and had implemented the same. The policy itself is not a subject matter of challenge under Article 14 of the Constitution or on the ground that it violates the fundamental right to carry on trade and business.

The appeal is dismissed. All pending applications are also dismissed.

**SANJIV KHANNA, J.**

**SUNITA GUPTA, J.**

**AUGUST 26, 2016**  
**VKR**