

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 04.12.2017

+ **W.P.(C) 6640/2016 and CM Nos. 27181/2016 and 14498/2017**

MUNNA KHAN

..... Petitioner

Versus

GOVERNMENT OF NCT OF DELHI & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Naresh Thanai, Ms Khushboo Singh and
Ms Bharti.

For the Respondents : Mr Gautam Narayan and Mr R. A. Iyer for
GNCTD.
Mr Prem Mishra, LA, DTIDC.

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HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The original petitioner (since deceased) has filed the present petition, *inter alia*, impugning a communication dated 18.07.2016 (hereafter 'the impugned communication'), whereby the petitioner has been called upon to vacate the PCO Booth at Platform - D, Inter State Bus Terminal, Anand Vihar, Delhi (hereafter 'the premises') on or before 31.07.2016.

2. The petitioner has also prayed that directions be issued to the respondents to frame a comprehensive policy for grant of licenses for shops, kiosks, booths etc. to physically challenged persons.

3. The original petitioner (Late Munna Khan) was allotted a PCO/STD Booth at ISBT by a letter dated 12.01.1999. The said allotment was made since he was physically disabled to the extent of 90%. The license was renewed from time to time and was last renewed up to 21.03.2016. Admittedly, the term of the license for the premises has expired. After the license term had expired, Delhi Transport Infrastructure Development Corporation Ltd. (hereafter 'DTIDC') issued the impugned communication calling upon the petitioner to vacate the premises. The original petitioner filed the present petition in the aforesaid context challenging the decision of DTIDC not to renew the license of the premises in his favour.

4. It is the petitioner's case that he is entitled to retain the petitioner's license on concessional license fee since its premises were allotted to him as a part of the welfare scheme for ensuring self-employment and livelihood for persons with disabilities. The petitioner also alleged that respondents had not framed any scheme for allotment of premises to persons with disability in term of Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereafter 'the 1995 Act').

5. The petitioner has also relied upon the decision of the Division Bench of this Court in ***Meena Saini v. Govt of NCT of Delhi and Ors: LPA 777/2011, decided on 09.11.2011*** to contend that it was incumbent upon respondents to frame a scheme for preferential allotment of premises to persons with disabilities.

6. The original petitioner (Late Munna Khan) expired on 24.03.2017 and his legal heirs were brought on record.

7. In the meanwhile, in June 2016, DTIDC issued a Notice Inviting Tenders (hereafter 'NIT') for allotment of kiosks/booths/spaces at Anand Vihar and Sarai Kale Khan. Pursuant to the aforesaid NIT, bids were received for allotment of the premises in question and the same were thereafter allotted to the successful bidder. However, DTIDC has been unable to handover possession of the said premises because by an order dated 02.08.2016, the respondents were interdicted from taking any coercive action against the petitioner. It was further directed that he would not be disturbed from the premises allotted to him at ISBT, Anand Vihar, Delhi.

8. Concededly, the premises were allotted on a license basis for a limited term which expired on 31.03.2016. Thus, plainly the original petitioner did not have any right to continue in occupation of the said premises.

9. The petitioner had founded this case on the obligation of respondents to make a scheme for preferential allotment of land to persons with disabilities in terms of Section 43 of the 1995 Act (which is *pari materia* to Section 37 of the Rights of Persons with Disabilities Act, 2016). The petitioner had rested his claim on the basis that if such scheme was framed, the petitioner would be entitled to a preferential allotment of the premises.

10. It is at once clear that the petitioner's case is not founded on *terra firma*. First of all, the petitioner has no vested right to retain the premises beyond the term of the license. Secondly, the respondents have framed a policy for preferential allotment of premises to persons with disabilities and 5% of the shops have been reserved for being allotted to "persons with disabilities". Thus, while the original petitioner was fully entitled to

compete with other persons with disability for allotment of the premises for a further term but he could claim any right to retain the premises in preference to other persons with disability.

11. After the demise of the petitioner, there is no plausible reason why any preferential treatment be accorded to his legal heirs, who are not persons with disabilities.

12. The question whether the policy framed by DTIDC for allotting 5% of the shops on preferential basis is flawed or not compliant with the provisions of the 1995 Act or the Rights of Persons with Disabilities Act, 2016 has been considered by this court in *Seema Tiwari & Ors v. Government of NCT of Delhi & Ors: W.P.(C) 6335/2016, decided on 04.12.2017*. And for the reasons stated in the said decision, the petitioner's challenge to the DTIDC's policy as contained in OM dated 01.08.2016 is rejected.

13. In view of the above, the petition is unmerited and is, accordingly, dismissed. All pending applications are also stands disposed of.

VIBHU BAKHRU, J

**DECEMBER 04, 2017
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