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

+ W.P.(C) 7056/2019 & CM No. 29433/2019

DAULAT RAM PUNIA

..... Petitioner

Through: Mr Tanmay Mehta, Mr Rohit Kumar
Singh, Mr Siddharth Kumar Singh
and Mr Rana Prashant, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Manish Mohan, CGSC with Ms
Manisha Saoha, Legal Officer with
Col. Anurag Chauhan, Legal Officer.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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04.07.2019

1. Issue notice. Mr Mohan, learned counsel appearing for the respondents accepts notice. With the consent of the learned counsel, the petition was finally heard.
2. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondents to permit the petitioner to participate in the bidding process for allotment of regimental shops at Base Hospital, which is scheduled to be held on 05.07.2019.
3. The petitioner is an ex-serviceman and has been running canteen at Base Hospital since 1998. Admittedly, the licence granted to the petitioner had expired by efflux of time. He was, however, granted further time till 31.07.2019 to vacate the premises. There is no dispute that the petitioner is

no longer entitled to run the canteen at the Base Hospital. The principal controversy involved in the present petition is whether the petitioner is entitled to participate in the bidding process for allotment of such shops in terms of the policy, which is now adopted by the respondents.

4. Mr Mehta, learned counsel appearing for the petitioner has drawn the attention to a letter dated 07.02.2018, which includes the relevant extract of the said policy. In terms of paragraph 8 of the said policy (as included in the aforesaid letter), allotment of regimental shops is reserved for war widows/widows of defence personnel killed while on duty/disabled soldier/ex-servicemen and spouses/widow of ex-servicemen. Paragraph 9 of the said policy further provides that the shops would be allotted for a period of five years with three years cooling off/break period.

5. Paragraph 8 and 9 of the policy is set out in the letter dated 07.02.2018, are set out below:-

“(a) Para 8 – Reservation of Shops for Allotment: 100% reservation for war widows/widows of defence personnel killed while on duty/disabled soldier/ex-servicemen and spouses/widows of ex servicemen etc. shall be followed for allotment of regimental shops in various formations/establishments/units.

(b) Para 9 – Period of Allotment/Licence: Licence period/allotment shall be subject to five years with a three years cooling off/break period.”

6. There is no dispute that ex-servicemen are entitled to participate in the bidding process for allotment of such regimental shops at the Base Hospital. However, the petitioner has been denied the opportunity to participate in such bidding since he has already enjoyed a license in respect of such shop for a significant period of time.

7. On a plain reading of the said policy, there is merit in the contention advanced on behalf of the petitioner that applying the cooling off period to the petitioner would amount to imposing this policy with a retrospective effect. This Court is of the view that the said policy cannot be applied retrospectively. Any person who is now granted a licence to operate any regimental shop, would be entitled to do so only for a period of five years and would not be eligible to participate, thereafter, for a period of three years (referred to as cooling off/break period).

8. Undisputedly, the respondents have the right to determine the eligibility criteria and unless the said criteria is found to be arbitrary or unreasonable, no interference in the same would be called for. However, the policy, as it stands today, does not stipulate that the persons who were licensees earlier are ineligible for participating in the bidding process, notwithstanding that they otherwise meet the eligibility criteria.

9. In the aforesaid view, the petitioner cannot be prevented from participating in the bidding process in terms of the current policy. The petition is, accordingly, allowed and it is directed that in the event bidding process is held for allotment in terms of the policy, the petitioner would not be precluded from participating in the same.

10. The pending application is disposed of.

11. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

JULY 04, 2019/MK