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

+ **W.P.(C) 6026/2018 & CM No. 23417/2018**

DANISH AKHTAR

..... Petitioner

Through: Ms Bhakti Pasrija Sethi, Mr Moksh
Pasrija and Mr Vikas Saini,
Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms Shiva Lakshmi, Mr Siddharth
Singh and Mr Arjun Singh Katoch,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.07.2019

1. The petitioner has filed the present petition, *inter alia*, impugning a notification dated 17.01.2018 issued by respondent no.2 (Ministry of Defence), whereby it has been directed that regimental shops would be reserved entirely for allotment in favour of the specified categories namely, war widows/widows of defence personnel killed while on duty/ disabled soldier/ex-servicemen & spouses/widows of ex-servicemen. The relevant clause of the said policy is set out below:-

“3. It is now, directed that the 100% reservation for War Widows/Widows of defence personal killed while on duty/Disabled Soldier/ Ex-servicemen & spouses/ Widows of Ex-servicemen etc, subject to licence period of 5 years with a 03 year cooling off/break period should be followed for allotment of Regimental

shops in various formations/establishments /units under the Army.”

2. The petitioner is a civilian and in terms of the said notification, is not eligible to seek allotment of a Regimental shop. The petitioner was granted a licence to run a tailoring shop at the “Taurus Welfare Facility”. The said licence was initially granted to the petitioner in the year 2015 and it was renewed from time to time. The last licence agreement was executed on 01.06.2017 granting the petitioner licence in respect of said shop for a period of 11 months commencing from 01.06.2017. Thus, the petitioner’s licence to occupy the said premises expired by the efflux of time on 30.04.2018.

3. The Licence Agreement (the original of which has been produced to this Court) also provides for a renewal option. In terms of Clause 5 of the Licence Agreement, the respondent had reserved the right to renew the same for a further period of 11 months and for a maximum period of 33 months at its discretion.

4. It is contended on behalf of the petitioner that by virtue of the impugned notification, the petitioner would not be eligible for bidding for a fresh licence.

5. The learned counsel appearing for the petitioner submits that the said policy has been framed in haste and without any consultation with the management of various complexes. She states that 100% reservation in favour of specified categories would effectively exclude any civilian from being granted licence in respect of the said Regimental Shops. She further contends that the respondent has confused Regimental Shops and Shopping Complexes and contends that the shop in question is not a regimental shop, but is a part of the shopping complex for which separate rules are applicable.

6. At the outset, it is necessary to note that the petitioner has no right to occupy the premises in question since concededly, the licence granted to the petitioner has expired by efflux of time and the same had not been renewed.

7. Insofar as the petitioner's challenge to the policy is concerned, it is noted that the said policy relates only to regimental shops and not to a Shopping Complex in respect of which the Defence Shopping Complex (Maintenance and Administration) Rules, 2006 have been framed.

8. In view of the above, the only question to be addressed is whether the policy framed by the respondents falls foul of any right guaranteed under the Constitution of India. It is the respondent's case that the said shops have been constructed out of regimental funds and are meant for welfare of ex-servicemen; they are otherwise not meant for welfare of civilians at large.

9. Given the fact that the said Regimental Shops are constructed by regimental funds and/or belong to the Concerned establishment of the Armed Forces; this Court finds no infirmity with the decision of respondent no.2 to reserve the shops only for welfare of ex-servicemen, war widows disabled soldiers, & spouses and widows of ex-servicemen etc. Clearly, the object of such policy is to rehabilitate ex-servicemen and their families who are in need of such welfare measures and this is precisely the object of opening family facilities by defence establishments.

10. The learned counsel appearing for the petitioner counters the submissions that the shops have been constructed by regimental funds or contributions from the Ministry of Defence. She states that the civilians (like the petitioner) who have been allotted a space in such family facilities have paid substantial money for occupation of the premises licenced to them. This contention is of little relevance considering that the amounts paid by the

petitioner are for occupation of the said shops and it obviously belongs to the concerned authorities.

11. The petition is unmerited and is, accordingly, dismissed. The pending application also stands disposed of.

VIBHU BAKHRU, J

JULY 24, 2019
MK