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

+ **W.P.(C) 7442/2016 & CM Nos. 30629/2016 & 30630/16**

M/S. USHA FOOD STORE

..... Petitioner

Through: Mr Pardeep Gupta, Mr Parinav Gupta, Mr Moazzam Ali and Ms Mansi Gupta, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr Shadan Farasat, ASC, GNCTD with Ms Hafsa Khan and Ms Rudrakshi Deo, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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22.02.2019

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 17.02.2016, whereby respondent no.1 has issued a Fair Price Shop (FPS) Authorization to respondent no. 4 (M/s Krishna Food Store) for a FPS at A-56, Gali No.2, Main 33 Ft. Road, Prem Vihar Shiv Vihar, Delhi-110094.
2. The petitioner had also applied for the FPS Authorization in the same area (Shiv Vihar) and is aggrieved as its application was not preferred by the respondent nos.1 and 2 (Commissioner, Food and Supply Department), in a comparative evaluation.
3. The petitioner has also challenged the Circular dated 27.07.2015, captioned "Policy for issue of license of Fair Price Shops (FPS) in Delhi". However, the learned counsel appearing for the petitioner states at the outset that he would not be pressing the challenge to the above-mentioned policy.

4. The petitioner's case is that the evaluation of various candidates for the allotment of an FPS is not in accordance with Sub-Rule (6) of Rule 3 of the Delhi Specified Articles (Regulations of Distribution) Order, 1981, inasmuch as, the respondents have not evaluated the financial capacity of various candidates. He further submits that the respondents have also not conducted a comparative assessment of the premises, as required under Clause 2 of Sub-Rule (6) of Rule 3 of the said Order.

5. The respondents have filed an affidavit indicating that various candidates were evaluated on the objective criteria of educational qualifications, knowledge of Rules, and personality. There is no dispute regarding the necessity of a FPS at Shiv Vihar and that the respective premises of the shortlisted candidates were also inspected for suitability.

6. The learned counsel for the parties submit that the controversy involved in the present petition is covered by an earlier decision of this Court in *M/s Khemwals Store & Ors. v. Government of NCT of Delhi & Ors.: W.P.(C) 7672/2017* decided on 02.11.2017, and the present petition may be disposed of in the terms of the said order.

7. Accordingly, the present petition is disposed of by directing the respondents to evaluate the financial standing of respondent no.4 and to fully ascertain its financial capacity for running an FPS.

8. The pending applications are also disposed of.

VIBHU BAKHRU, J

FEBRUARY 22, 2019/MK