



2024:DHC:7974



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

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Decided on: 14.10. 2024

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W.P.(C) 1065/2018 & CM APPL. 4442/2018**NEW SOBTI MOTOR TRAINNING SCHOOL**PetitionerThrough: **Mr. Sushil Kumar Singh, Mr. Anuj
& Mr. Suman Malik, Advocates.**

versus

GOVT OF NCT OF DELHI & ORS

.....Respondents

Through: **Mr. Anuj Aggarwal, ASC for
GNCTD with Mr. Yash Upadhyay
& Mr. Siddhant Dutt, Advocates
for R-1 to 3.****CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The writ petitioner has approached this Court against an order, issued by the Government of National Capital Territory of Delhi ["GNCTD"], Transport Department, dated 08.02.2017, by which his application for renewal of the license of a motor driving training school and change in proprietorship has been rejected. The petitioner has been advised to apply for a fresh license as per the prevailing rules and guidelines.

2. The petitioner's father - Mr. Om Prakash Sobti was granted a license on 12.10.1992 to establish a school for imparting training in



driving of motor vehicles. He established the school by the name of – M/s. New Sobti Motor Driving and Training School. Mr. Om Prakash Sobti was the sole proprietor of the school. The license was renewed from time to time, and the last license granted to Mr. Om Prakash Sobti was valid until 07.03.2012. Mr. Om Prakash Sobti died on 02.02.2012, whereafter his son Mr. R.K. Sobti (the petitioner herein), claiming to be the new proprietor of M/s. New Sobti Motor Driving and Training School, applied for renewal of the license. The petitioner claims that his premises were inspected and various documents were sought by the department, but ultimately by the impugned communication dated 08.02.2017, the request was rejected.

3. Mr. Sushil Kumar Singh, learned counsel for the petitioner, submits that the petitioner is entitled to renewal of the license in the name of the proprietorship concern, as he is the legal heir of his late father. He submits that he had furnished No Objection Certificates of the other legal heirs for grant of the license in his favour.

4. Mr. Anuj Aggarwal, learned Additional Standing Counsel for GNCTD, takes a preliminary objection that refusal of a license or an application for renewal of a license is appealable under Rule 29 of the Central Motor Vehicles Rules, 1989 [“the Rules”]. He submits, on merits, also that the Rules do not permit the transfer of license by inheritance as the license for operating a motor driving training school is granted after compliance of various parameters that are personal to the licensee. He submits that the petitioner is at liberty to apply afresh for grant of a license, in accordance with current rules and policy governing the same.

5. The establishment of driving schools and licenses for the same are



governed by Rules 24 to 32 of the Rules. Rule 24 provides that a driving school or establishment may be established or maintained only under a license granted by the licensing authority. The forms for the application for grant and renewal of licenses are prescribed under the Rules. Various factors to be considered for grant of a license are enumerated in Rule 24(3) of the Rules as follows:-

“24. Driving schools and establishments.—

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(3) The licensing authority shall, when considering an application for the grant or renewal of a licence under this rule, have regard to the following matters, namely:—

(i) the applicant and the staff working under him are of good moral character and are qualified to give driving instructions;

(ii) the premises where the school or establishment is proposed to be conducted is either owned by the applicant or is taken on lease by him or is hired in his name and it has adequate provision for 47 [conducting lecture and demonstration of models] besides adequate parking area for the vehicles meant to be used for imparting instructions in driving:

Provided that in respect of schools or establishments imparting instructions in driving of motor vehicles or matters connected therewith immediately before the commencement of these rules, the licensing authority may permit the conducting of instruction facilities in the same premises where the school or establishment is housed for a period of six months, notwithstanding the fact that the premises do not satisfy the conditions laid down in this clause;

(iii) the financial resources of the proposed school or establishment are sufficient to provide for its continued maintenance;

(iv) the applicant owns and maintains a minimum of one motor vehicle each of the type in which instruction is imparted in the school or establishment;

(v) the vehicles are available exclusively for purposes of imparting instruction and all such vehicles, except motor cycles, are fitted with dual control facility to enable the instructor to control or stop the vehicle;

(vi) the applicant maintains the following apparatus, equipment



and other requirements, namely:—

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(viii) *The applicant or any member of the staff employed by him for imparting instructions possesses the following qualifications, namely:—*

(a) a minimum educational qualification of a pass in the 10th standard,

(b) a minimum driving experience of five years in addition to a certificate in a course in motor mechanics or any other higher qualification in mechanical engineering from an institution established by the Central or a State Government or from an institution recognised by the Board of Technical Education of a State Government,

(c) thorough knowledge of traffic signs specified in the Schedule to the Act and the regulations made under section 118,

(d) ability to demonstrate and to explain the functions of different components, parts of the vehicles,

(e) adequate knowledge of English or the regional language of the region in which the school or establishment is situated: Provided that any person who has served as an instructor for a period of not less than five years immediately before the commencement of these rules, is exempted from the requirements of this sub-clause.”

The provision for renewal of the license is under Rule 25.

6. Although Rule 29 does, as argued by Mr. Aggarwal, provide for an appellate remedy against an order refusing renewal, I am not inclined to dismiss the writ petition at this stage on this ground. It has been held in several decisions of the Supreme Court that the availability of an alternative remedy is a self-imposed restriction on the grant of relief under Article 226 of the Constitution, but is not a jurisdictional bar.¹ In the present case, the dispute between the parties does not turn on a factual controversy, such as whether the petitioner's establishment fulfils any of the conditions specified in the Rules, but on a legal determination that



renewal of a license cannot be granted to an heir of the licensee. Such a determination does not involve any disputed question of facts which would render summary adjudication in writ proceedings inappropriate. Keeping these factors in mind, particularly the fact that the petition has been pending in this Court for six years, I am not inclined to dismiss it on the preliminary ground urged by Mr. Aggarwal.

7. Turing to the merits of the matter, however, I do not find the petition merited. The original licensee was the petitioner's late father, albeit in the name of his proprietorship concern. A sole proprietorship is essentially nothing but the proprietor himself. The proprietorship concern is only a business name or trade name in which the proprietor operates his or her business, profession or trade. The physical assets of the training school may, as property of the late proprietor, be inheritable, but that does not answer the question as to whether the license to operate a motor driving training school could also be inherited by his heirs.

8. As far as this aspect is concerned, the respondents are justified in submitting that a "renewal" cannot be granted to the heir of the original licensee. The Rules do not provide for "renewal" in favour of any person other than the existing licensee. A licensee entrusted with establishment and maintenance of a driving school discharges an important responsibility of training drivers of motor vehicles. This responsibility has a fairly proximate potential effect on road safety and public order. It is evident from Rule 24(3)(i) that the character and qualification of the applicant, and the staff working under him, are of relevance in considering an application for grant of renewal of the license. Such a

¹ See *Godrej Sara Lee Ltd. v. E&TOCAA* [(2023) 109 GST 402, 2023 SCC OnLine SC 95].



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license, dependent at least in part upon the personal attributes of the licensee, is *ipso facto* incapable of transmission by inheritance. The Rules also do not contain any provision for such a transfer.

9. Having regard to the aforesaid, I am of the view that the impugned order dated 08.02.2017 suffers from no legal infirmity. The writ petition, alongwith pending applications, is therefore dismissed.

10. The petitioner will, however, be at liberty to apply for grant of a fresh license in his own name or in the name of the proprietorship concern, which will be assessed in accordance with the existing rules and policy guidelines, in accordance with law. Mr. Aggarwal states that policy guidelines for driving schools and establishments have recently been revised, and the revised guidelines have been issued on 26.06.2024. He submits that if the petitioner makes an application in accordance with the revised guidelines, his application will be considered in accordance with law.

PRATEEK JALAN, J

OCTOBER 14, 2024

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