

(2001) 10 DEL CK 0021
In the Delhi High Court
Case No : CW No. 5568 of 2000

Bharat K. Oil Depot

APPELLANT

Vs

Commissioner and Another

RESPONDENT

Date of Decision : 04-10-2001

Acts Referred:

Citation : (2002) 95 DLT 389

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Anil Panwar, for the Appellant; Aditya Madan, for the Respondent

Final Decision : Allowed

Judgement

Mukul Mudgal, J.—Rule.

2. With the consent of the parties, the matter is taken up today for final hearing.

3. The petitioner had been granted a license No. 4008/95 for Kerosene Oil Depot in Circle 19 in the year 1995. The normal parameters for a license is that one license should have 800 food cards for one kerosene oil depot. The petitioner sought a transfer of license from Circle 19 which was allotted to it where it had only 96 food cards to any other circle and eventually sought a transfer to Circle No. 22. The request of the petitioner was based on the Memorandum dated 17th of November, 1988 which inter alia provides for a transfer in cases extreme genuineness and hardship which include inadequate number of food cards. It is not in dispute that existing food cards i.e., are wholly inadequate as compared to the optimum requirement of 800 food cards and this would cause extreme hardship to the petitioner, as required by the said Memorandum. The relevant portion of the said Memorandum reads as under:

"There may be, however, cases of extreme genuineness and hardship. There may be eviction in pursuance of the Court Order of the PDS outlet from the existing business premises. There may also arise serious dispute between PDS owner

who may be a tenant and the landlord and the cases might be pending in the Court of Law, and there might be a case of inadequate number of food cards and there might not be any scope for increase of the number of food cards in the near future. Such cases can be considered on merits by the Zonal Officers and if considered necessary in the interest of the PDS and the consumer, change in the business premises may be effected with the prior approval of the Commissioner, F & S, and Executive Councilor (Health)..ls1"

4. The petitioner eventually applied for transfer to Circle 22 on 31.1.2000. The said request was declined by the respondents on 13.6.2000 and the vacancy in the Circle No. 22 was advertised on 1.7.2000. The impugned Order dated 13.6.2000 dismisses the petitioner's application for shifting its Kerosene Oil Depot from Shalimar Bagh to OKN, WYZ Blocks of Prem Nagar-II, Circle 22 on the ground that there are no vacancies of Circle 22. However, on 1.7.2000 vacancies of Circle 22 are advertised. Thus it is evident that the Order dated 13.6.2000 is not sustainable as the reasoning in that order is vitiated by the advertisement dated 1.7.2000. The petitioner, Therefore, fulfills all the requirements of the Office Memorandum dated 17.11.1988 and since there is an established case of extreme genuineness and hardship, it is just and proper that since sufficient number of food cards are available in Circle No. 22, as demonstrated by the advertisement dated 1.7.2000, the petitioner's request for granting Circle No. 22 be accepted.

5. Accordingly, a writ of mandamus is issued, quashing the Order dated 13.6.2000 and directing the respondents to transfer the petitioner's license (No. 4008/95) of Kerosene Oil Depot from Shalimar Bagh to OKN, WYZ Blocks of Prem Nagar-II, Circle 22 by implementing the Policy NO. F. 4(5)/86-CFA (D)/20566 dated 17.11.1988 within four weeks from today. In view of the said directions, the impugned Notification dated 1st of July, 2000 may be given effect to after the petitioner's license is transferred to Circle 22.

6. With these observations, the petition is accordingly allowed as indicated above with no orders as to costs.