
(2011) 09 DEL CK 0087

In the Delhi High Court

Case No : Writ Petition (C) 7402 of 2005 and CM No. 5292 of 2005 (for stay)

Federation of Cooperative Group Housing Societies-Dwaraka Ltd APPELLANT

Vs

DDA and Others RESPONDENT

Date of Decision : 12-09-2011

Acts Referred:

Citation : (2011) 09 DEL CK 0087

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Suman Bagga, for the Appellant; Renuka Arora and Mr. Kunal Kohli, Advocates for R-1 DDA, Mr. Sumeet Pushkarna with Mr. Jitendra Kumar, Advocates for R-2 DJB., for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The Petitioner, a Federation of Cooperative Group Housing Societies located in Dwaraka, has filed this petition seeking mandamus to the Respondent No. 2 Delhi Jal Board (DJB) to take over the distribution and billing of the supply of water to the flats for the various cooperative group housing societies in Dwaraka and impugning the rates at which the Respondent No. 1 DDA has been charging the said flats for supply of water; direction is also sought for billing of the said flats for the supply of water at par with the supply in rest of the city of Delhi.

2. Notice of the petition was issued and vide order dated 29th April, 2005 which continues to be in force, status quo with regard to the supply of water on the terms and conditions on which the same was being supplied was directed to be maintained. Counter affidavits have been filed by the Respondents DDA and DJB. From time to time Respondents DDA and DJB were directed to file further affidavits/status reports which have been filed. The counsels have been heard.

3. As far as the claim of the Petitioner for the supply and distribution of water in

Dwaraka to be taken over by the Respondent DJB is concerned, the stand of the Respondent DDA is that it has no objection thereto. It is however the Respondent DJB which has stated that it is not at present willing to take charge of the same. It is stated by the counsel for the Respondent DJB that DJB/its predecessor had as far back as in the year 1992-94 warned that the required quantity of water could not be supplied due to severe constraint of raw water; photocopies of letters dated 18th March, 1992 and 18th March, 1994 have been handed over in this regard. The counsel for the Respondent DJB further states, that the work on Water Treatment Plant, Dwaraka, Delhi to be fed from Munak canal Haryana is underway and is likely to be completed not before March, 2012; that the work of construction by DDA of Command Tanks (CT)-5 & 6 serving Dwaraka is underway and only after the same is completed can the supply be tested. The counsel for the Respondent DJB has stated that DJB is not willing to take over the work of distribution of water in the colony of Dwaraka till all the aforesaid works are completed. Respondent DJB in its counter affidavit has also referred to W.P.(C) No. 10467/2004 also preferred by the Petitioner complaining of insufficient supply of water in the colony of Dwaraka and in which direction was issued for them to mutually resolve the issue of inadequate supply of water in the said colony. It is contended that Respondent DJB in the said writ petition also had expressed difficulty in taking over distribution of water in the colony. It is stated that unless sufficient supply is available for distribution and which at present is not, Respondent DJB is unwilling to take over the same. It is further stated that it is not as if the Respondent DJB is supplying water in the entire city of Delhi. It is stated that the Respondent DJB is making bulk supply besides to DDA also to NDMC and MES areas and does not take over the distribution in the development stage in which the colony of Dwaraka is at present. Respondent DJB had stated that it is, as per availability, making bulk supply to DDA for distribution in the colony of Dwarka.

4. The counsel for the Petitioner inspite of repeated queries as to what is the right of the Petitioner in enforcement of which mandamus is sought for Respondent DJB to take over the supply and distribution of water in Dwarka, is unable to show so. Without the Petitioner disclosing before this Court the basis of its claim for the mandamus sought, it cannot be held entitled to the relief.

5. As far as the challenge to the rates is concerned, the contention of the counsel for the Petitioner is that the rate being charged by Respondent DDA in the colony of Dwaraka is much higher than the rate being charged by the Respondent DJB in the colonies of Delhi where DJB is distributing water. It is contended that DDA cannot charge more from the residents of Dwaraka.

6. The stand of the Respondent DDA in this regard is that DDA is not profiteering in any manner from the distribution of water; it is charging on the basis of the rates at which Respondent DJB is making bulk supply to DDA plus the costs incurred by DDA in distribution/boosting of water to the various Cooperative Group Housing Societies.

7. The counsel for the Respondent DJB has also stated that the rate at which DJB makes bulk supply at the entry point in a colony are different from the rate which it charges from the actual consumers inasmuch as the rate chargeable to the actual consumer is also dependant upon the cost of distribution. It is further stated that with effect from 7th December, 2009, while the rate for bulk supply is at the rate of Rs. 6.30 paise per k. litre, the rate chargeable to the direct domestic consumer is of Rs. 2 per kilo litre for consumption upto 10 kilo litres per month, Rs. 3 per kilo litre for consumption between 10 and 20 kilo litres per month, Rs. 15 per kilo litre for consumption between 20 and 30 kilo litres per month and Rs. 25 per kilo litre for consumption beyond 30 kilo litres per month.

8. On enquiry it is further informed by the counsel for the Respondent DJB that there is no parity in the rates charged by the other bulk consumers namely NDMC and MES from their respective consumers.

9. It has again been enquired from the counsel for the Petitioner as to under which provision of law/rule the water tariff is to be fixed and what is the right of the Petitioner to claim supply of water at the same rates as being charged by Respondent DJB or NDMC or MES from their respective consumers. Again no answer has been forthcoming.

10. Without the same, the Petitioner cannot be heard to challenge the price of water charged by the Respondent DDA.

11. I may also notice that there is no challenge to the claim of the Respondent DDA of charging on the basis of the rates being paid by it plus costs on distribution. The counsel for the Respondent DDA has during the hearing further informed that since the supply from Respondent DJB is admittedly in-sufficient to meet the entire requirement, DDA is also resorting to boosting the ground water and the costs whereof also is to be built into the charges payable by the consumers.

12. I am further of the opinion that no parity can be claimed by the Petitioner with the rates being charged in other localities/colonies of Delhi. The fact that the city of Delhi has different municipalities and several agencies in control/charge of different areas is a hard reality. The services of one municipality/body/authority are found to be different from that of the other. Residents of one locality governed/managed/controlled by one municipality/authority cannot be heard to say that the services provided by the other are better or that they are entitled to the same services, when the other authority/municipality is not in a position to exercise jurisdiction in that area/locality. Thus the residents of one locality/colony cannot be said to be similarly placed as the residents of other so as to make out a case for discrimination.

13. The Petitioner has thus failed to make out any basis for the relief claimed. The writ petition is accordingly dismissed. I refrain from imposing any costs.