

(2008) 02 DEL CK 0313

In the Delhi High Court

Case No : LPA No's. 2238 and 2595 of 2005

Krishan Gupta

APPELLANT

Vs

Hari Shankar and Another

RESPONDENT

Date of Decision : 04-02-2008

Acts Referred:

Citation : (2008) 1 CTLJ 201 : (2008) 102 DRJ 84

Hon'ble Judges : Dr. M.K. Sharma, C.J;Reva Khetrapal, J

Bench : Division Bench

Advocate : Ajit Singh, in LPA No. 2595/2005 and R.P. Bansal, Rakesh Mahajan, Prabhat Ranjan and Sheetesh Khanna, in LPA No. 2238/200, for the Appellant; Ajit Singh, in LPA No. 2238/2005, R.P. Bansal Rakesh Mahajan, Prabhat Ranjan and Sheetesh Khanna for Respondent No. 1 in LPA No. 2595/2005 and Amandeep Joshi, for Darpan Wadhwa, for Respondent No. 2/GNCTD, for the Respondent

Judgement

Mukundakam Sharma, C.J.—We have heard the learned Counsel appearing for the parties on these appeals which relate to grant of license of a Kerosene Oil Depot by the respondent No. 2 and we propose to dispose of both these appeals by this common judgment and order as they arise from cross-writ petitions.

2. One of the said writ petitions was filed by the appellant-Krishan Gupta being Writ Petition No. 4515/1994 and the other by the respondent No. 1-Hari Shankar. The appellant-Krishan Gupta as also the respondent No. 1-Hari Shankar, one of the respondents in the present appeal and the appellant in LPA No. 2238/2005, are the two aspirants for grant of license for the Kerosene Oil Depot in the year 1994. Krishan Gupta, appellant in LPA No. 2595/2005, was not successful and the same was granted to Hari Shankar which was renewed from time to time and the said Hari Shankar was enjoying the said benefit on the basis of the renewal granted. The writ petition was, Therefore, filed challenging the allotment of the license in favor of Hari Shankar. The said writ petition was heard and disposed of by the learned Single Judge by passing an order dated 23rd August, 2005. In

paragraph Nos. 9 and 10, the following order/direction was issued by the learned Single Judge:

9. During the pendency of this writ petition for over one decade, the license issued to respondent No. 2 has been renewed from time to time. The course that commends itself, Therefore, is that this license shall not be renewed on the expiry of its present term. Fresh applications will be invited by the respondent No. 1, Government of NCT of Delhi and the decision whom to grant the KOD license shall thereafter be taken in accordance with law.

10. Accordingly, the writ petition is allowed and a direction is hereby issued to respondent No. 1 not to renew the license granted to respondent No. 2 on the expiry of its current tenure. A grievous violation of law has occurred for which there would be no alternative but to conclude that the impugned decision was taken by the Commissioner instead of the Assistant Commissioner on the dictates of the Minister and the MLA concerned. Respondent No. 1 shall take immediate steps inviting fresh applications within thirty days from today for grant of a license of the subject KOD.

3. The appellant is aggrieved by the aforesaid findings recorded by the learned Single Judge only to the extent that instead of quashing the license granted by the respondent No. 2 to the respondent No. 1-Hari Shankar, the direction which is sought to be issued is that the license which was granted in 1994 and renewed from time to time, should not be further renewed on expiry of the present term. Needless to state, the said Hari Shankar is also aggrieved by the aforesaid directions contained in paras 9 and 10 of the impugned order.

4. The original license was granted in favor of Hari Shankar in 1994 and thereafter it was renewed from time to time. In the meantime, the policy and the terms and conditions of allotment of license have also changed and, Therefore, it is necessary to call for fresh licences in accordance with law. We, are informed by the counsel appearing for the respondent No. 2, that an advertisement has already been issued calling for fresh applications for grant of license of a Kerosene Oil Depot pursuant to which applications have been received. In that view of the matter, we find no reason to interfere with the order passed by the learned Single Judge for we also believe that fresh license is to be issued by calling for fresh applications. All the persons who are eligible can submit their applications as against the aforesaid advertisement for allotment of such Kerosene Oil Depot.

5. At this stage we are informed that there was a subsequent development pursuant to which the matter is now pending for consideration before the selection board. It is, however, submitted by the counsel for the respondent No. 2 that the license has already been issued. These facts are not part of our records. We accordingly dispose of these appeals holding that it shall be open to the parties to approach the competent authority with an appropriate application, which when filed shall be considered by the respondent No. 2 in accordance with

law.