

(2002) 01 DEL CK 0067

In the Delhi High Court

Case No : CW No's. 2622 and 3425 of 2000

M.L. Khan and Co.

APPELLANT

Vs

Union of India and Others
 Basau Construction (India)
Vs Union of India and Others

RESPONDENT

Date of Decision : 24-01-2002

Acts Referred:

Citation : (2002) 96 DLT 837 : (2002) 62 DRJ 34

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Deepak Tyagi, for the Appellant; Sachin Nawani and Amiet Andley, for the Respondent

Judgement

Manmohan Sarin, J

1. Rule.

With the consent of the parties, writ petition is taken up for disposal

2. By this common order, I would be disposing of above mentioned two writ petitions as both the writ petitions raise common question regarding the reservation of contract for security services in favor of ex-servicemen and requirement for registration with Director General of Resettlement.

3. By these writ petitions, petitioners seek directions to Government of NCT of Delhi and N.C.T.D. not to violate the fundamental rights of the petitioner firm for equality and freedom of trade and business as being enshrined and guaranteed under Article 14,16, 19 and 21 of the Constitution of India. Petitioners also seek directions to N.C.T.D. for issuance of the tender document and for allowing the petitioners to participate in the tenders.

4. Counsel for the petitioners submits that the petitioners do not question the welfare measure as well as the object and the aim in introducing the provision of security services being manned by ex servicemen. He himself states that such a

measure is designed for the welfare of ex serviceman and would not violate Article 14 or 19(1)(g) of the constitution of India. The petitioners' grievance emanates out of the manner in which this is sought to be implemented. as per the counsel, terms and conditions of the contract require that the security services agencies have to be either proprietorship or a Private Ltd. Company run by ex-servicemen. Further a condition is stipulated that 90% of the employees should be ex-servicemen.

5. Counsel for the petitioner submits that this condition is not being implemented and followed. He seeks quashing of letter dated 21.7.1999, bearing No. F.O/E in CPWD/3049 and office memorandum F.O/E in CPWD/3049 by respondents for issuance of security/sanitation work tenders to only those security agencies registered with Director General of Resettlement as arbitrary, illegal and unconstitutional. He submits that he would give to the respondent's counsel a list of contracts, where the security agencies are neither owned by ex-servicemen nor 90% of ex serviceman are employed. Counsel for respondents 2 to 4 submits that in case any such list with full particulars is received, they would make enquiries and act in accordance with law.

6. Let the list of any such contravention be supplied by counsel for the petitioner within 4 weeks. Counsel at this stage submits that condition regarding security agencies being owned by ex-servicemen officers who are either individual proprietors or Directors of private limited companies, should not be there. It should be open for any individual to run the security agencies only be engaging ex-servicemen. This would really tantamount to submitting that the ex-servicemen officers should not be rehabilitated and the reservation should be confined only to ex-serviceman employees. The reservation made is two-fold. One is for ex-serviceman as officers, who are proprietors/owners to manage the agency, secondly the agency must employ 90% ex-servicemen. There is no rationale or basis to quash the reservation in respect of officers. This Challenge has to fail.

7. Writ petitions stand disposed of in the above terms.