

(2000) 08 DEL CK 0050
In the Delhi High Court
Case No : CW. No. 7082/99

Shiv Kumar Chadha

APPELLANT

Vs

Indian Oil Corporation Ltd. and Others

RESPONDENT

Date of Decision : 09-08-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 56 DRJ 575

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Dr. Surat Singh, for the Appellant; Ms. Reeta Kaul, for the Respondent

Judgement

Manmohan Sarin, J.—Rule.

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

The petitioner by this writ petition, seeks a writ of mandamus, against the respondents to transfer the allotment of petrol pump/retail outlet site at Vikaspuri, New Delhi-110002 in her favour.

2. The petitioner's deceased son late Rajiv Chadha had been selected in September 1994, for allotment of a retail outlet site. Petitioner's case is that her deceased son being handicapped, was selected on merit for allotment. The allotment could not fructify as a writ petition bearing No. 4568/96 titled Sehkari Gramin Sewa Samiti Vs. Oil and Natural Gas Commission, had been filed wherein the allotments of several petrol pump sites including that of petitioner's son had been challenged. On 29.1.1999, petitioner's deceased son, who had been impleaded as respondent was deleted from the array of respondents on the footing that allotment was on merit and was not vitiated on the grounds set forth in the writ petition. Following this no hurdle was left in giving effect to the allotment in favor of the petitioner's deceased son. It may however be noted that the petitioner's son in the meanwhile had expired on 14.9.1997.

3. The question which falls for consideration in this writ petition is whether the petitioner, who happens to be mother of the deceased, is entitled to succeed to the said allotment. Counsel submits, petitioner is an old widow, who is eligible and deserving.

4. Respondents oppose the writ petition. It is stated that the petitioner had concealed the factum of the death of her deceased son, who had been selected for allotment. On 29.1.1999, when order for deleting the name of respondent (her deceased son) in CW No. 4568/96 was passed, it was not revealed that petitioner's son had expired. Learned counsel for the petitioner submits that the petitioner had duly informed the respondents in April, 1999, that her son had expired and the allotment be transferred in her favour. This would not make any material difference to the petitioner's case. Be it may, it is contended that even under the policy as reproduced in the counter affidavit, the petitioner is not eligible for getting the allotment on the demise of her son. It would be worthwhile to reproduce the three conditions whereunder the legal heirs of a deceased allottee or who is the holder of letter of intent are entitled to have the letter of intent/allotment transferred in their favour. These conditions are reproduced as under:-

"(i) If the LOI holders had made substantial investment towards acquisition of land and/or creating infrastructure, but expired or killed before the commissioning of the dealership/distributorship.

OR

(ii) If the LOI holder had made substantial progress in putting up the facility, but because totally paralysed or mentally unsound, etc. which rendered him/her ineligible for the dealership/distributorship. OR (iii) If the LOI holder expired without making any progress for dealership/distributorship and there is no other candidate in the merit panel for the dealership, distributorship in question."

In the instant case, it is not in dispute that the possession of the site was not handed over to the deceased or to the petitioner. As such there is question of any investment towards acquisition of land or creation of infrastructure.

5. Learned counsel for the petitioner has contended that the petitioner had done all that was required to be done on his part. Petitioner should not be made to suffer for no fault of theirs. In the instant case, when the allotment was made in favor of the petitioner's deceased son, there was another candidate who was empanelled as No.2 in the merit list. Learned counsel for the respondent has produced on record the Letter of Intent already issued to the said Wing Cdr. Mukhtiar Singh Varaich on 6.9.1999. The third party rights have also come into play.

In view of foregoing discussion, I find that there is no merit in the writ petition. The same is, Therefore, dismissed.