

(2009) 12 DEL CK 0225

In the Delhi High Court

Case No : Writ Petition (C) 9059 of 2008

Smt. Shashi Devi

APPELLANT

Vs

Commissioner Food and Supplies and Others

RESPONDENT

Date of Decision : 07-12-2009

Acts Referred:

Citation : (2009) 12 DEL CK 0225

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Raghuvinder Verma, for the Appellant; Mukul Singh and Pareena Swarup, for the Respondent

Final Decision : Disposed Off

Judgement

Sanjiv Khanna, J.—The grievance of the petitioner Smt. Shashi Devi is that her application dated 11th December, 2006, for shifting of kerosene oil depot license from C-17, Molarband Extension, Badarpur (Circle No. 36), New Delhi to plot No. 48, Pocket-A, Phase-II, Madan Pur, Khadar, J.J. Colony (Circle No. 36), New Delhi, has been wrongly rejected.

2. This is the second round of litigation. The petitioner, Smt. Shashi Devi had earlier filed W.P.(C) No. 6522/2007, which was disposed of vide order dated 30th July, 2008.

3. In order dated 30th July, 2008, it was noticed that the card position in the circle, where the petitioner wants to shift was much better than the card position where the petitioner was operating. The petitioner had only 47 cards. The Court noticed that application for shifting was opposed by the area MLA and the petitioner was asked to submit "no objection certificate" (NOC) from the area MLA. It was held that the respondents had taken contradictory stand. In the counter affidavit, it was stated that there was no stipulation for NOC from area MLA in the control order but as per departmental guidelines, recommendation of area MLA was required. During the course of hearing, the respondents were not

able to produce any such circular/guidelines. Accordingly, the direction of the respondents that the petitioner should produce NOC from the area MLA was set aside and the respondents were asked to reconsider the application for shifting on merits..

4. By order dated 10th October, 2008, the respondents have rejected the request of the petitioner for transfer of kerosene oil depot (KOD) license, inter alia, on the ground that there are already three KODs and the card position of these kerosene oil depots was not sufficient even as per the norms of the department. As per the card position, each KOD were allocated about 1449 cards, whereas as per the departmental norms, each KOD should have 2,500 cards.

5. The impugned order does not notice the card position of the petitioner i.e. 47 cards. Further, counsel for the petitioner has highlighted that M/s Gajender KOD was permitted to shift to this area, though they had filed application for shifting of licence only on 23rd January, 2007, whereas the petitioner had filed the application of shifting of licence on 11th December, 2006. Thus, the application of the petitioner for the shifting of licence was earlier in point of time but was on the first occasion wrongly rejected because of failure to submit NOC from the area MLA. The petitioner cannot be penalized and denied shifting because of the wrong decision of the respondents.

6. Accordingly, the impugned order dated 10th October, 2008, is set aside. The respondents will reconsider the matter on the question whether petitioner had better right to claim shifting of the KOD viz. Gajender KOD. If required, notice will be issued to Gajender KOD before any order is passed. The respondents will decide the matter expeditiously and preferably within six months from the date copy of this order is received. In the facts and circumstances of the case, there will be no order as to costs.