
(2011) 03 DEL CK 0060

In the Delhi High Court

Case No : LPA 273 of 2011 and CM Application 6024 of 2011

Sunita Rani

APPELLANT

Vs

Delhi Development Authority

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Citation : (2011) 03 DEL CK 0060

Hon'ble Judges : S. Ravindra Bhat, J;G.P. Mittal, J

Bench : Division Bench

Advocate : Richa Kapoor and Alpana Pandey, for the Appellant; Sangeeta Chandra, for DDA and N.C. Bhatt, Assistant Director (Commercial Estate), for the Respondent

Judgement

S. Ravindra Bhat, J.—Issue Notice. Ms. Sangeeta Chandra, Advocate accepts notice on behalf of DDA and submits that appeal can be disposed of at this stage since she has instructions to make a statement. Mr. N.C. Bhatt, Assistant Director (Commercial Estate) is present in Court and has brought the relevant files. Learned Counsel states that the Petitioner's name can be included in the forthcoming draw of lots, since she is entitled to a commercial unit, as per this Court's order of 04.09.2006, and that after her claim is satisfied, the draw of lots vis-?-vis other applicants in the reserved categories would be held.

2. The brief facts are that the Petitioner had occasion to approach this Court several times in the past. She belongs to the category of reserved candidates entitled to a fixed quota from amongst the shops available for allotment to eligible candidates. After her earlier Writ Petition No. 2673/2003 was disposed of, the DDA took the position that the directions in that order merely resulted in an entitlement for the Petitioner's name to be included in the draw of lots. The Petitioner sought to initiate contempt proceedings but was unsuccessful. Similarly, the attempt to seek clarification of the order was unsuccessful too. She was constrained to file another Writ Petition No. 9871/2006 where the Court after considering the records of the DDA, as well as in other disposed of Writ

Petitions, was of the view that the stand of the DDA was unfair and arbitrary since it amounted to discrimination between the two members of the same class, i.e. reserved eligible candidates for allotment of such shop units.

3. By an order dated 04.09.2006, this Court in its operative directions stated as follows: -

27. As a result of the above conclusions, the DDA is directed to include the Petitioner's name, in the next draw of lots, for the allotment of a shop in the category where shops are being given at reserve price and the Petitioner shall be allotted the shop at the current reserve price. The directions shall be complied with, in eight weeks from today.

4. It is a matter of record that the DDA wrote to the Petitioner, as well as others on 12.02.2007 stating about availability of shops in certain market areas. The Petitioner's position was that the entire facts were not disclosed, that the inventory of all the shops was not made available and deliberately concealed.

5. She apparently also raised other grievances, which she sought to agitate in the contempt proceedings, i.e. Cont. Case (C) No. 1385/2006; the same was disposed of on 06.05.2009. The operative part of the Court's directions, while disposing of the contempt proceedings, were as follows: -

8. Learned Counsel for the Respondent-DDA states that the Petitioner can be given a fresh list of reserved shops presently available and she can exercise her option in terms of judgment dated 4th September, 2006. The allotment will be at current reserve price. It is open to the Petitioner to approach the Respondent-DDA for availing this benefit/concession given by the DDA in their affidavit dated 12th February, 2007. In case the Petitioner makes any such request, the same will be considered expeditiously by the Respondent-DDA.

6. The Petitioner carried the matter in appeal where the Division Bench altered the contempt order and deleted the above directions. She was unsuccessful in her attempt to have the matter re-opened in appeal by special leave to the Supreme Court.

7. In the Writ Petition, which led to the impugned order in this case, the Petitioner agitated the issue about the DDA not having included all available units while making the offer to her on 12.02.2007. Her petition was, however, not entertained and was dismissed at the admission stage.

8. In this background of facts, this Court had, on the first date of hearing of the appeal, asked as to whether the DDA could at this stage include the Petitioner's name having regard to her clear entitlement for a shop unit. The procedure indicated by the counsel for the DDA was that the preference of each applicant would be fed into the computer and after analyzing the matches, the allotment would be given on the basis of a draw. This obviously meant that the Petitioner's entitlement to a clear unit would, if exposed to the vagaries of the draw of lots held by the DDA, result in her merely been given a chance to be included in the

draw. Obviously, that was not the purport or meaning of the directions given by this Court in the Writ Petition allowed on 04.09.2006, i.e. W.P. No. 9871/2006. A reading of that judgment would clearly show that the Court intended that the Petitioner had to be given a firm allotment and not merely a chance of participation in the draw of lots.

9. In view of the clarification recorded in the previous paragraph of the judgment, this Court is of the opinion that the appeal can be disposed of with suitable directions in line of the statement (of the DDA). In the circumstances, the parties are directed as follows: -

(i) The Petitioner shall be present before the Deputy Director (Commercial Estates) at 10:30 AM on 30.03.2011. The said official shall hand over the list of the commercial units/flats, which are to be included in the forthcoming draw of lots.

(ii) The Petitioner shall fill the appropriate form and indicate choice in order of preference.

(iii) The DDA shall first process the Petitioner's application through preferential allotment and thereafter proceed with allotment in accordance with its published order of priority.

The appeal is disposed of in terms of the above directions.

Order dasti under the signatures of Court Master.