

(2009) 05 DEL CK 0337
In the Delhi High Court
Case No : Cont. Cas (C) 1385 of 2006

Sunita Rani

APPELLANT

Vs

Dinesh Rai and Others

RESPONDENT

Date of Decision : 06-05-2009

Acts Referred:

Citation : (2009) 05 DEL CK 0337

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Richa Kapoor and A.S. Gambhir, for the Appellant; Sangeeta Chandra, for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—The petitioner herein has alleged violation of directions given in judgment dated 4th September, 2006 passed in Writ Petition (Civil) No. 9871/2006 titled Sunita Rani ersus DDA. By the aforesaid judgment, the learned Single Judge had disposed of several writ petitions after noticing the chequered history and divergent orders passed by this Court in various writ petitions which had been filed by persons belonging to Scheduled Castes and Scheduled Tribes praying for allotment of shops at reserve price under the quota. It was noticed that no specific directions were given in the case of the petitioner whereas in other cases, the Court while disposing of the Writ petitions had given specific direction for allotment of shops and to include the names of the petitioners in the draw of lots. As per the policy of DDA, shops under the reserved category are advertised and offers/option are being invited from persons belonging to Scheduled Castes and Scheduled Tribes. Each applicant can exercise three options. In case of multiple applications for the same shop, allottee is selected by draw of lots.

2. The claim of the petitioner was that her case should be considered for allotment of shop without awaiting for fresh/separate advertisement and DDA has violated and committed contempt of the judgment dated 4th September,

2006.

3. Learned Single Judge in the judgment dated 4th September, 2006 had issued the following directions:

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. The directions are clear and categorically state that the petitioners will be allotted shops at the current reserve price. It was also directed that the petitioner's name will be included in the next draw of lots for allotment of shops in the category where shops are being given at the reserved price.

5. It is admitted by the learned Counsel for the petitioner that DDA on 22nd February, 2007 gave a list of shops available with them and asked the petitioner to exercise her option. Learned Counsel for the petitioner admits that on 12th February, 2007 a list of shops was furnished to the petitioner to enable her to exercise the option in terms of directions issued by this Court in the judgment dated 4th September, 2006. Similar lists of shops were also given to other petitioners/parties to the judgment dated 4th September, 2006. The petitioner, however, did not exercise her option for allotment. It is the contention of the petitioner that this list was incomplete as some shops which have been allocated to the reserved quota on 8th February, 2007 had not been included. It is difficult to accept that this amounts to deliberate violation of the judgment dated 4th September, 2006 and DDA is guilty of contempt.

6. The stand taken by the respondent-DDA as mentioned in their letter dated 22nd February, 2007, reads as under:

Please refer to your letter dated 19.2.07 submitted by you personally to the undersigned during public hearing. In this regard it is informed that

i) The CSC at Panchsheel and LSC Pkt. B Dilshad Garden was not included in the list supplied to you because the computerized draw of bifurcating the new inventory into general and reserved category was approved by the Competent Authority only on 8.2.07 i.e. after the order of the Hon"ble High Court on 4.9.06 or even 29.1.07.

ii) There is no shop in Sector-2 Dwarka and it seems that you are referring to CSC Sector-22 Dwarka. These shops of Sector 22 Dwarka were also got bifurcated based on the approval of the Competent Authority on 8.2.07 for the computerized draw.

iii) As per inventory maintained in this office no reserved shop for SC category is available in LSC B-7 Vasant Kunj.

2. It is pertinent to bring to your notice that the list sent to you was updated

even upto the last date of hearing in the High Court i.e. on 29.1.07. Since the updation is a continuous process we have to take a cut off date to ensure that there is no delay in compliance of the orders of the Hon''ble High Court...the list provided to you was updated in the best possible manner.

3. It may also be brought to your notice that after the passing of the order dt.29.1.07 by the Hon''ble Court, the same list of inventory as has been made available to you was made available to the other four petitioners as well. The list provided to sixth petitioner namely, Sh. Ashok Kumar was for physically handicapped category and was also updated in same manner. Two of the petitioners have already submitted their options to DDA.

4. It may also be mentioned that a computerized draw has already been conducted for two petitioners namely Shri Ganga Prasad & Smt. Rajni Rani on 21.2.2007 based on the same list as was provided to you. Once the draw has been conducted for two petitioners based on the said list it would be unfair to them to give a different list for draw to the other petitioner with further updation including you.

5. So far as the reserve price is concerned it is mentioned that no reserve price has been revised at higher side after order of the Hon''ble High Court on 4.9.06. The reserve price communicated to you vide letter No. F.12(33)2002/CE/1115 dated 12.2.2002 was the same reserve price duly approved by the Competent Authority much prior to order of the Hon''ble High Court on 4.9.96.

You are again requested to submit your 5 options from the list sent to you before 26.2.07 so that the draw can be held on 28.2.07 at 3.00 p.m. and the order of the Hon''ble High Court can be complied with. Here. It may be noted that unit No. 408 & 605 at Distt. Centre Laxmi Nagar have been allotted to two petitioners through the computerized draw held on 21.2.2007 hence, these should not be included in your options.

7. Directions given by the learned Single Judge in the judgment dated 4th September, 2006 are quoted above. Respondent-DDA has complied with the said directions as they had circulated the list of shops to the petitioner to exercise her option. No dates or cut off point was fixed in the judgment dated 4th September, 2006. Respondent-DDA have also explained that they had to fix a particular cut off date for circulating the list of shops in the reserved category. They have taken 29th January, 2007 as the cut off date in view of the directions passed in the present Contempt Petition. I do not think that the respondent-DDA is in contempt of the judgment dated 4th September, 2006. The present Contempt Petition is accordingly dismissed.

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.