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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1754/2013 & CM APPL. 3728/2014

SMT. CHANDER KANTA Petitioner
Through Mr. O.P. Bhadani, Advocate

versus

GOVT. OF NCT OF DELHI AND ORS Respondents
Through Ms. Sonia Arora with Ms. Pallavi
Shali, Advocates

% Date of Decision : 1st April, 2014

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Petitioner who is a widow of the original allottee challenges respondent's direction to execute licence deed dated 24th December, 2012 on the ground that her physically handicapped husband was a permanent licence holder.

2. Learned counsel for petitioner submits that as petitioner has been in occupation of the PCO booth for more than three decades, respondents without having a rehabilitation policy for such kiosk owners cannot today ask the petitioner who is a widow and now in her late forties, to vacate the kiosk.

3. Learned counsel for petitioner further submits that the Government of NCT of Delhi cannot today auction the kiosks as it has no policy whereby all kiosks have to be allotted through a tender process.

4. It is pertinent to mention that petitioner has not filed any permanent licence deed in favour of her late husband. In fact, respondent-Hospital in its counter-affidavit has stated that neither the petitioner nor her deceased husband prior to filing of the writ petition had ever communicated the factum of original licence deed being lost. The case of respondents is that petitioner is running a tea stall instead of original allocation of PCO booth.

5. Learned counsel for respondents states that petitioner is being asked to vacate the kiosk/booth in accordance with the direction issued by the Superintendent (Health-II), Department of Health and Family Welfare, Government of NCT of Delhi vide letter dated 14th January, 2011. The relevant portion of the said letter reads as under:-

“Sub:- Allotment of Kiosks/Stalls/PCO Booths etc. in the Hospitals.

Sir/Madam,

In a case of Public Grievance, pertaining to Lok Nayak Hospital, Public Grievance Commission has observed that no transparent and well-publicized system was in place in hospitals for the allotment of Kiosks/Stalls/PCO Booths etc. Chairman, Public Grievances Commission vide his DO letter No. CH/PB/PGC/2010/80 dated 24/27 December 2010 addressed to Secretary, Health & FW, GNCTD has advised that a Committee of Officials should be constituted to develop a transparent system for allotment of Stalls in the hospital premises under government of NCT of Delhi and allotment should be made only after proper invitation of bids through public notices, so that government revenue is generated. Even allotments to needy/handicapped persons can be made after inviting bid from below poverty line through public notice for a specific period, and it must be non-hereditary.....”

6. This Court is also of the view that just because the petitioner has continued to run the Kiosks for more than three decades, she cannot claim that the State must first rehabilitate her, before she is evicted. If the petitioner's submission is accepted, then it would be mandatory for the Government to provide employment to all the unemployed youth of the country – which submission is neither tenable in law nor feasible.

7. This Court is further of the view that allotment of shops/kiosks by way of tender process is the norm as it promotes transparency and raises revenue for the State. Consequently, such a policy is in conformity with our Constitutional norms and needs to be encouraged.

8. Though this Court has sympathy for the physically handicapped, yet it is of the view that State largesse cannot be monopolised/cornered by a few individuals.

9. In the present case, the petitioner is treating the allotment of a PCO Booth in favour of her physically handicapped late husband as a family asset which can be inherited by her and her family members.

10. Consequently, present writ petition and application being bereft of merit are dismissed. However, keeping in view the intent and objective of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, respondents are directed to allocate the PCO Booth/Tea Stall to be vacated by the petitioner, in accordance with the aforesaid Act, within a period of two months.

MANMOHAN, J

APRIL 01, 2014

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