

Delhi Transport Infrastructure ... vs Mukesh Singh & Anr. on 2 April, 2025

Author: Tushar Rao Gedela

Bench: Tushar Rao Gedela

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment reserved on: 28.03.2025
Judgment delivered on: 02.04.2025

+ LPA 151/2025, CM APPL. 12025/2025, CM APPL. 12026/2025 &
CM APPL. 12027/2025

DELHI TRANSPORT INFRASTRUCTURE DEVELOPMENT
CORPORATION LTDAppellant

versus

MUKESH SINGH & ANR.

.....Respondent

Advocates who appeared in this case:

For the Appellant : Mr. Amiet Andlay, Advocate.

For the Respondents : Mr. Aman Jha, Mr. Rishi Tutu, Mr. Himanshu
Pathak and Mr; Kshitij Mayank, Advocates for
1, alongwith Respondent No.1 in Person.
Mr. Manashwy Jha, Panel Counsel, Civil,
GNCTD for R-2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J.

1. Present letters patent appeal has been filed challenging and assailing the Order and Judgment dated 16.10.2024 passed by learned Single Judge of this Court whereby the Writ Petition bearing W.P.(C) No.13372 of 2024 titled "Mukesh Singh Vs. Govt. of NCT of Delhi and Anr." has been dismissed on merits, however, with a direction for payment of compensation to the respondent no.1/petitioner to the extent of INR 2 Lakhs, as a fair estimate of the costs incurred in setting up the kiosk and on account of arbitrariness in termination of the license, just one day after the same was granted to the petitioner.

2. This Court had, on previous occasions upheld the orders passed by the learned Single Judge on merits whereby the petitioners therein had filed appeals against such dismissals. (See LPA

No.1102/2024, Tara Singh Jeena vs. Government of NCT of Delhi Through Secretary Cum Commissioner & Anr. Neutral Citation Number 2024:DHC:8703-DB).

3. In the present case, it appears that the learned Single Judge, though had rejected the relief sought by the respondent no.1/petitioner seeking quashing of the impugned letter No.F.B(Z)AV/EE/DTIDC/2022-2023/129 dated 10.09.2024, vide which the license period of all shops/kiosk/trolley stood terminated and the petitioner was directed to handover such vacant shops/kiosk/trolley to respondent no. 2 within one month, apart from an alternative prayer of allotment of another kiosk to the respondent no.1, yet on a consideration that the respondent no.1 is a person falling within the category of Person with Disability (PwD), directed the appellant to pay suitable compensation.

4. The respondent no.1 is present in person and we find that he is an individual suffering from Post Polio Residual Paralysis having 90% permanent disability and is wheelchair bound. Considering this situation, we fathom why the learned Single Judge was persuaded to direct payment of reasonable compensation to the respondent no.1.

5. That said, we would also consider grant of this relief on a deeper examination of the rights conferred upon the persons with disabilities/impairments. We find from the Preamble of the Rights of Persons With Disabilities Act, 2016 (hereinafter referred to as "Act") that the principles for empowerment of persons with disabilities include full and effective participation and inclusion in society, equality of opportunity, and respect for inherent dignity, individual autonomy including the freedom to make one's own choices and independence of persons. Sub-section(s) of Section 2 of the Act describes "persons with disabilities" to mean a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others. Similarly, "reasonable accommodation" has been defined to mean necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure the PwD the enjoyment or exercise of rights equally with others as per sub section (y) of Section 2 of the Act.

"Rehabilitation" has been defined to mean a process aimed at enabling PwD to attain and maintain optimal, physical, sensory, intellectual, psychological environment or social function levels as per sub section (za) of Section 2 of the Act. That apart, we are of the opinion that this particular category of citizens fall within the vulnerable strata of the society, who may, depending on a case to case basis, be indulged in by the Constitutional Courts under the parens patriae jurisdiction. Though no such mandate is provided specifically in the Act, yet we find that the learned Single Judge was propelled to direct the payment of compensation in the following paragraph:-

8. That being said, the Court cannot overlook a significant issue in the present case that raises concerns about the fairness of the Respondents' actions. As noted, the Petitioner was granted possession of the kiosk on 9th September, 2024, under a license with a term of one year, only for it to be terminated merely a day later. This sequence of events reveals a clear instance of arbitrariness in the Respondents'

conduct. If the Respondents had concrete plans for the redevelopment of ISBT-Anand Vihar, there was no reasonable basis for them to proceed with executing the license and handing over possession of the kiosk to the Petitioner, only to terminate it the very next day. Such actions reflect a lack of procedural fairness and transparency, and understandably give rise to the Petitioner's grievance.

9. The Petitioner has also asserted that he incurred expenses amounting to INR 3 Lakhs in setting up the kiosk. Although no documentary proof has been submitted to substantiate this claim, the photographs annexed with the writ petition (Annexure P-9) provide some indication of the expenditure incurred. Given these circumstances, the Court finds the Petitioner's grievance to be genuine and acknowledges that he should not bear the financial burden caused by the Respondents' arbitrary actions. Therefore, while the Court cannot fully verify the exact amount claimed, it is deemed appropriate to direct the Respondents to compensate the Petitioner with an amount of INR 2 Lakhs, as a fair estimate of the costs incurred in setting up the kiosk.

6. We have neither any reason to disagree with the learned Single Judge nor any substantial ground to take a divergent view. We are also acutely aware that the said decision is taken in the peculiar facts of this case and may not be treated as a precedent.

7. Predicated on the above, this Court vide its order dated 28.02.2025 in the present appeal, had enabled the learned counsel for the appellant to obtain instructions keeping in the view the facts of this particular case and the nature of the disability of the respondent no.1/Mukesh Singh.

8. Mr. Ameit Andlay, learned counsel for the appellant/DTIDC, on instructions from the department, submits that the appellant department, without pressing further the present appeal, is ready, willing and proposing to compensate the respondent no.1/Mukesh Singh, to the tune of INR 50,000/-, subject to the satisfaction and orders of this Court. He, however submits that the quantum of compensation so arrived at by the learned Single Judge was solely premised on the basis of the photographs of the kiosk in question attached with the underlying writ petition, without verifying the veracity of the substantiating averments in the underlying writ petition. He thus, submits that this Court may take this factor into consideration while passing suitable orders for compensation in the present appeal.

9. In the preceding paragraphs, we have examined the preamble and certain provisions of the Act, which in our considered opinion was promulgated by the Legislature keeping the best interests of PwD and is a beneficial Act. It is conceivable that myriad situations and instances requiring interference by Constitutional Courts may not have been countenanced while promulgating the Act. Surely, there cannot be any quarrel with the proposition that, both the Central and State Governments and the Courts of law, moreso, the Constitutional Courts are mandated to further the aims, objects and benefits embedded in such provisions. We are of the opinion that the *parens patriae* jurisdiction ought to apply on all fours in favour of this category of citizens. Moreover, the finding and opinion of the learned Single Judge that the appellant had known its redevelopment plan and while being in the know of such facts, offering shops/kiosk; allotting the same on one day;

and cancelling such allotment the very next day reeks of arbitrariness, the act being whimsical and unfair to the detriment of the respondent no.1; have not been demonstrated to be wrong.

10. Keeping in view the above principles noted by us in respect of the Act and the view taken by the learned Single Judge, this Court is of the considered opinion that the judgement passed by the learned Single Judge needs no interference by this Court.

11. Since the period as directed by the learned Single Judge has expired, this Court deems it fit to extend the time for payment of compensation by the appellant. Resultantly, the appellants are directed to pay an amount of INR 2 Lakhs to the respondent no.1/Mukesh Singh, within 6 weeks from today.

12. Compliance Report thereto be filed by the appellant within one week thereafter.

13. Present appeal alongwith pending application stands disposed of in above terms.

TUSHAR RAO GEDELA, J DEVENDRA KUMAR UPADHYAYA, CJ APRIL 02, 2025/rl