

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

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Judgment delivered on :31.01.2007

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**WP (C) 9305/2006**

**SH AJAY GARG, PROPRIETOR OF  
M/S RATTAN KOD**

...Petitioner

- versus -

**LT. GOVERNOR OF DELHI & ORS**

...Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr Sunil Malhotra.

For the Respondents : Mr Ramesh K Sharma.

**CORAM:-**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

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|----|---|-----|
| 1. | Whether Reporters of local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the Reporter or not?                                | YES |
| 3. | Whether the judgment should be reported in Digest?                    | YES |

**BADAR DURREZ AHMED, J (ORAL)**

1. The learned counsel for the petitioner submitted that the petitioner's father late Shri Rattan Lal was the holder of the KOD licence No.3082/87 and was running his kerosene oil depot under the name and style of M/s Rattan KOD at JB-3/64, Welcome, Seelampur, Delhi. He further submitted that the said Shri Rattan Lal had been running the said depot since 1987 and no complaints were received from any party with regard to the conduct of the business during his life time. The said Shri Rattan Lal passed away on 29.01.2004. Three months thereafter some complaints surfaced with

regard to the alleged irregularities committed during the month of June, 2003, that is, ten months prior to the date of the complaint and seven months prior to the death of the said Shri Rattan Lal.

2. The learned counsel for the petitioner also pointed out that on the death of Late Shri Rattan Lal, the KOD licence was substituted, though after some litigation, in favour of the present petitioner who is the son of Shri Rattan Lal. He submitted that the grievance of the petitioner in this petition is against the order dated 9.11.2005 whereby his appeal against the cancellation of the licence was rejected. The main ground taken by the learned counsel for the petitioner is that two show cause notices dated 7.4.2004 and 8.7.2004 issued to the petitioner pertained to alleged irregularities committed during the life time of the petitioner's father late Shri Rattan Lal. He submits that, as per the records, there was no short supply. He further submitted that all the card holders, subsequent to the alleged complaints, have filed affidavits stating that no short supply was made to them. He further submits that the show cause notices were issued to the petitioner when he was not involved in irregularities allegedly committed during the period he was not conducting the affairs of the depot. Therefore, in any event, even if it is assumed that the card holders supported the stand taken in the complaint, it would not be possible for the petitioner to have shown cause as was required of him. This is so because the petitioner, apart from the records available with him which he was in possession of after the demise of his father, had no personal knowledge with

regard to the alleged irregularities. Therefore, according to the learned counsel for the petitioner it was clearly unjust and unfair on the part of the authorities to have cancelled the licence merely on the complaint of an NGO by the name of Parivartan which had made allegations with regard to the short supply to the said card holders. And, particularly so because five card holders had submitted affidavits stating that no short supplies were made to them.

3. The learned counsel appearing on behalf of the respondents submitted arguments in support of the initial order of cancellation as well as the order passed in appeal which is impugned herein. He submitted that the irregularities were committed and, therefore, the licence was rightly cancelled.

4. Having considered the arguments advanced by the counsel for the parties, I am inclined to agree with the submissions made by the learned counsel for the petitioner. This is primarily because of two reasons. The first reason being that the card holders, who were allegedly supplied with quantities of kerosene lesser than the amounts recorded, have stated on affidavits that no short supply was made to them. The second reason is that the petitioner would not be in a position to answer the show cause notices in an effective way inasmuch as the allegations pertained to the period when his father was alive and he alone was conducting the affairs of the kerosene oil depot. Another aspect which requires consideration is that after the alleged irregularities were committed, the said late Shri Rattan Lal was alive for 7 months but no complaints were made during that period. It is only after his death and that too

after three months that the said NGO made the said complaint. This also indicates that the complaint was not sustainable. In these circumstances, the writ petition is allowed. The impugned order cancelling the petitioner's said licence is set aside.

**BADAR DURREZ AHMED  
(JUDGE)**

**January 31, 2007**  
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