



2024:DHC:7600



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

% **Judgment reserved on : 06 August 2024**
Judgment pronounced on: 03 October 2024

+ W.P.(C) 11037/2022 and CM APPL. 32331/2022

RAVINDER KUMAR JAINPetitioner

Through: Mrs. Vikas Jain & Mr. Nikhil
Fernandez, Advs. along with
petitioner in person.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.

.....Respondents

Through: Ms. Manika Tripathy, SC for
DDA along with Mr. Barun
Dey, Adv.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The petitioner is invoking the extra-ordinary jurisdiction of this Court by instituting the present writ petition under Articles 226 and 227 of the Constitution of India, 1950 seeking the following reliefs:

“a. Issue a writ, order or direction in the nature of mandamus or any other appropriate writ directing the Respondents to issue the allotment letter to the Petitioner pursuant to the draw of lots of allotment of MIG Plot bearing no. D2/ 49, Sector 29 against Registration no.234252, priority no. 14953 under MIG category in Rohini Residential Scheme - 1981 conducted on 28.10.2016;

b. Issue a writ, order or direction in the nature of mandamus or any other appropriate writ directing the Respondents to handover the physical possession of the MIG Plot bearing no. D2/ 49, Sector 29 against Registration no. 234252, priority no. 14953 under MIG category in Rohini Residential Scheme - 1981

c. Issue a writ, order or direction in the nature of mandamus or any other appropriate writ directing the Respondents to bring on record the file of the draw of lots and the present status towards the issuance of allotment and subsequent possession of the plot;



- d. Issue a writ, order or direction directing the Respondents to allot the plot to the Petitioner at the prevailing rate of land at the time of computerized draw of plots i.e. on 28.10.2016;
- e. Issue a writ, order or direction imposing heavy costs on the Respondents since they have neglected their duties and have caused long delays in firstly the draw of lots for the allotment of plots and thereafter never issued the allotment letters after selection;
- f. Issue a writ, order or direction imposing a compensation of Rs. 10,00,000/- on the Respondents for causing long delays and causing ill health to the Petitioner
- g. To exempt the petitioner from filing the original or certified copy of Annexure P-1 to P-12;
- h. Any other writ/order or direction as this Hon'ble High Court may deem fit in the facts and circumstances of the case may be passed in favour of the petitioner.
- i. The Petition may kindly be allowed in favour of the Petitioner with costs.”

BRIEF FACTS:

2. The petitioner, who claims to be a senior citizen aged about 76 years, has instituted the present petition *inter alia* seeking the issuance of an allotment letter from the respondents/Delhi Development Authority [**DDA**] in respect of the plot at the site mentioned in the prayer clause in the Rohini Residential Scheme, 1981 [**RRS, 1981**]. The grievance of the petitioner herein is that he has been running pillar to post for the past 43 years in hopes of securing housing for himself under the RRS, 1981, formulated by the respondents/DDA, however, without any avail.

3. Shorn of unnecessary details, the petitioner in 1981 applied in the draw of lots for the allotment of an MIG plot under the RRS, 1981 upon deposit of earnest money to the tune of Rs. 5,000/- *vide* Registration receipt dated 22.04.1981. It is stated that after almost 25 years i.e., in 2005, he was informed by the respondents/DDA about



his ineligibility for allotment under the RRS,1981 in view of the fact that the petitioner herein had already been allotted a flat in Dwarka under the New Patterned Registration Scheme 1979 [**'NPRS, 1979'**].

4. Consequently, the petitioner moved for cancellation of the allotment under the NPRS, 1979, so as to become eligible for allotment under the RRS, 1981, which cancellation admittedly stood confirmed *vide* a Letter bearing No.312 (2112) 01/DW/NP/PT/787 dated 21.02.2007, forming part of Annexure P-3, issued by the Respondents/DDA for the refund of the registration amount paid by the petitioner for the allotment of the flat in the NPRS, 1979.

5. Seven years later, the respondents/DDA *vide* letter dated 06.02.2014 bearing no. F 1(M) 234252/07/ LSB (RO) DDA/ 130 forming part of Annexure P-5, acknowledged the candidature of the petitioner for selection in the draw of lots for allotment of an MIG plot in the RRS,1981. It is stated that during the period from 2012 till 2015, the petitioner herein made several representations to the respondents/DDA inquiring about the status of the allotment but without any response until 24.10.2016, on which date the respondents/DDA issued a letter no. F 1(M) 234252/LSB/RO/ DDA/678 forming part of Annexure P-7, intimating the petitioner that a computerised draw of lots under the RRS, 1981 would be held on 28.10.2016.

6. The petitioner duly participated in the said draw of lots on 28.10.2016. However, the respondents/DDA again failed to formally communicate any information with regard to the results of the said draw and the status of allotment to the petitioner. After a span of a



year and a half, the petitioner issued letters dated 03.05.2018, 08.05.2018, 15.05.2018, 10.07.2018 and also sought several personal hearings before the respondent no.3/Principal Commissioner, in the years 2019 and 2020, for issuance of an allotment letter in his favour, but all his efforts fell to deaf ears.

7. Eventually, the petitioner filed the present writ petition in the year 2022 *inter alia* seeking directions to the respondents/DDA to issue an allotment letter to the petitioner. However, the story does not end here. In a surprising twist of events, during the pendency of the present writ proceeding, the respondents/DDA issued a letter of cancellation of allotment bearing no. F 1 (M) 234252/ LSB (Rohini)/ DDA/ 2999 dated 07.11.2022 forming part of Annexure-1 of the additional affidavit filed by the petitioner. The grounds for cancellation, as laid out in the said letter dated 07.11.2022 are reproduced hereinunder:

“...Sir/Madam,

Whereas you got yourself registered under Rohini Residential Scheme-1981 vide application no. 23 4252 dated 22.04.1981 under MIG category.

Whereas you were allotted plot bearing no 49, Blk/Pkt D-2, Sector-29, measuring 60.00 sq mtrs in a computerized draw held on 28.10.2016.

Whereas, a complaint regarding the draw held on 28.10.2016 was received in this office from the Vigilance Department, DDA.

Whereas, a committee was formed by Vice Chairman, DDA to examine the said complaint and your case has been examined by the said committee.

Whereas, while examination it has been found that you were a registrant under New Pattern Registration Scheme 1979 of DDA.

Whereas, as per clause No.4 of terms and conditions of RRS-1981, “Persons who are registered with the DDA under any of its Housing Registration Schemes or New Pattern Scheme 1979 are allowed to get their registration transferred to “Rohini”.



They will form a separate block of registration and priority in the matter of allotment will be given to them. On transfer, applicant shall have no right to allotment under earlier Housing Scheme.”

Whereas, you have violated the terms and conditions of Rohini Residential Scheme and have not got your registration under New Pattern Scheme 1979 transferred to Rohini Residential Scheme-1981.

Accordingly, allotment made to you under Rohini Residential Scheme is hereby cancelled.

This issues with Approval of Vice Chairman, DDA...”

[BOLD EMPHASIS SUPPLIED]

8. There is no gainsaying that the aforesaid decision is also assailed by the petitioner on the grounds of the respondents/DDA conducting itself in total dereliction of their public duties, in the most callous and bureaucratic fashion. Upon notice of the present writ proceeding, the respondents/DDA filed a counter affidavit dated 05.12.2022 as well as an additional affidavit dated 26.08.2023, and the consistent stand of the respondents/DDA that emerges is a reiteration of the contents of the letter of cancellation of allotment dated 07.11.2022. It is stated that during scrutiny of the petitioner’s application for allotment of plot, it was noticed that the petitioner was a registrant under the NPRS, 1979 and even though such allotment in the NPRS, 1979 stood cancelled *vide* letter of refund of registration money dated 21.02.2007, the Screening Committee of the DDA which was constituted to examine the case of the petitioner and 28 other similarly placed allottees, while relying upon Clause No. (4) of the terms and conditions of the RRS, 1981, has recommended for withdrawal of restoration of registration and cancellation of registration of the petitioner under the RRS, 1981, in view of the fact



that at the time of registration of RRS, 1981, the petitioner herein was given the opportunity to transfer the previously-procured NPRS registration into RRS registration, however, the petitioner herein failed to comply with such directions.

9. In rejoinder, the petitioner has strongly urged that the respondents/DDA have taken contradictory stands in as much as they admitted the selection of the petitioner's application in the draw of lots for allotment of plot under the RRS 1981, and at the same time, have also averred that the petitioner failed to fulfil the procedural requirements mandated under Clause (4) of the RRS 1981 brochure, a document which was published and circulated way back in 1981. Moreover, in view of the fact that the issue of the procedural requirement of "transfer from NPRS 1979 to RRS 1981" has been raised by the respondents/DDA for the very first time *vide* their counter affidavit dated 05.12.2022, it is contended that the law of estoppel squarely applies on the respondents/DDA. Lastly, it is submitted that Clause (4) of the Terms and Conditions of RRS 1981 does not prohibit an applicant from applying in the RRS 1981 without transferring and it is only a "priority clause" which postulates that applicants who transfer themselves to RRS 1981 will be given priority in the matter of allotment. Thus, Clause (4) is not applicable to the petitioner's case as he had cancelled his registration under NPRS 1979 and received a refund, which was evidently communicated to the respondents/DDA as well.



10. The petitioner has relied upon the decisions this Court in **Delhi Development Authority v. Shail Shukla**¹, **Kishan Chand Saini v. Delhi Development Authority**², and **Dhanesh Kumar Jain v. Delhi Development Authority**³ as well as the decision of the Supreme Court in **Rahul Gupta v. Delhi Development Authority**⁴ to support his submissions.

ANALYSIS AND DECISION:

10. I have bestowed my thoughtful consideration to the submissions advanced by the learned counsels for the rival parties at the Bar. I have also perused the relevant record of the present case.

11. In view of the broad facts of the present matter that are admitted by the parties, first things first, it would be apposite to reproduce Clause (4) of the terms and conditions of the RRS, 1981 hereinunder:

“4. Transfer from Other Housing Schemes- Persons who are registered with the DDA under any of its Housing Registration Schemes or New Pattern scheme 1979 are allowed to get their registration transferred to ‘Rohini’. They will form a separate block of registration and priority in the matter of allotment will be given to them. Those who desire to get their registration transferred from any of the earlier DDA Housing schemes to Rohini Scheme will pay along with their application the difference between the amount already deposited and the earnest money payable to the Rohini Scheme. While submitting the application, they will be required to surrender the fixed deposit earlier receipt duly discharged and the copy of the challan form in respect of their deposit in that Housing Scheme. Interest on their fixed deposit in the Housing Scheme would be transferred to their new account and adjusted at the time of the final allotment of the plot. They will get interest at the rate of 7% per annum on the amount of interest as calculated up to

¹ 2022 SCC OnLine Del 2244

² 2015 SCC Online Del 12068

³ 2012 SCC OnLine Del 4917

⁴ Petition(s) for Special Leave to Appeal (C) No (s). 16385-16388/2012



31.03.1981. On transfer, the applicant shall have no right to any allotment under the earlier Housing Scheme”.

12. A bare perusal of the aforesaid scheme would show that the persons/applicants who had applied for NPRS, 1979 were afforded latitude to get their registration transferred to RRS, 1981 which was envisaged to be a separate block of registration, and to be accorded priority in the matter of allotment, subject to the persons/applicants making payment of the differential amount towards the earnest money which was evidently more in the case of RRS, 1981. The applicants were also required to surrender their fixed deposit under earlier receipts with a copy of challan, and the interest accrued was stipulated to be adjusted at a time of final amount.

13. It is also pertinent to mention here that as per the application form for RRS, 1981 which forms part of the brochure (Annexure P-1), *vide* stipulation Clause 6(c) there was a query if the applicant had registered with the DDA under any registration scheme for allotment of flats. Further, as per clause (1)(ii) of the terms of the allotment, it was provided as under:

“ii. The individual or his wife/her husband or any of his/her minor children who do not own in full or in part on lease-hold or free-hold basis any residential plot of land or a house or have not been allotted on hire-purchase basis a residential flat in Delhi/New Delhi or Delhi Cantonment. If, however, individual share of the applicant in the jointly owned plot or land under the residential house is less than 65 sq. mts., an application for allotment of plot can be entertained. Persons who own a house or a plot allotted by the Delhi Development Authority on an area of even less than 65 sq. mts. shall not, however, be eligible for allotment.”

14. Meaning thereby that an earlier allotment of less than 65 sq. mts., was not to be an embargo for applying under the scheme. In view of the above, it is brought on the record that the petitioner, pursuant to his letter dated 18.08.2005, had been refunded a sum of



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₹10,618/- on applying cancellation/surrender of the registration of flat No.290 Pkt. A Sector 17, Dwarka. It is an admitted fact that the petitioner had also applied for allotment of a plot under the RRS, 1981 and on 25.11.2013 (Annexure P-4), he wrote a letter to the DDA in continuation of the previous letters dated 17.09.2012 and 17.10.2012 lamenting that more than a year had passed but the plot under the RRS, 1981 had not been allotted to him. It was in response to the aforesaid letter that the respondents/DDA *vide* letter dated 06.02.2014 (Annexure P-5) intimated to him as under:-

“DELHI DEVELOPMENT AUTHORITY
LAND SALES BRANCH (ROHINI)
ROOM NO 111, 1ST Floor, C-3

VIKAS SADAN, INA, NEW DELHI-23
No.F.1(M)234252/07/LSB(RO)/DDA/130 Dated: 06-02-14.

To
Shri Ravinder Kumar Jain
E-8, Milap Nagar, Uttam Nagar,
New Delhi-110059

Sub: Allotment of plot against registration 234252, Priority No.14953 under MIG category in Rohini Residential Scheme-1981.

Please refer to you letter dated 26.11.2013 on the subject cited above. In this context it is inform to you that competent authority is pleased to allow to include your name in the list of eligible candidate for draw of lots for allotment of MIG plot as and when same is conducted.

Director(RL)DDA

Copy to: Prog.Asstt./LSB(Rohini) for enclosing of name in new draw.

Director(RL)DDA”

15. Thus, it is brought out that the respondents/DDA informed the petitioner that the competent authority had accepted his request for



allotment of a plot in RRS, 1981 and his name would be included in the draw of lot for allotment of an MIG plot, as and when it would be conducted. The petitioner further received a letter dated 24.10.2016 from the respondents/DDA (P-7), whereby he was informed that a draw of lots for the allotment of plots under the RRS, 1981 shall be held on 28.10.2016 at 11.00 a.m. also providing the details of the site where it was to be conducted besides intimating him that the size of the plot would be 60 sq. mts. As the petitioner did not hear anything from the respondents/DDA, he wrote a letter on 03.05.2018 (Annexure P-8) *inter alia* pointing out that he was present at the time of allotment and he was informed that the allotment letter would be issued to the individual within a week thereafter but he was still awaiting a decision thereupon.

16. To cut the long story short, the trials and travails of the petitioner can be appreciated from the fact that despite sending repeated letters to the respondents/DDA which are dated 08.01.2019, 14.02.2019, 28.02.2019, 26.03.2019, 18.04.2019, 02.05.2019 and 29.10.2019, he did not get any response and eventually he filed the present writ petition, the cognizance of which was taken on 25.07.2022 and the notice was issued to the respondents/DDA.

17. Now, interestingly, the respondents/DDA in its counter-affidavit dated 05.12.2022 for the first time put forth its defence to the effect although the petitioner had a signed Priority No.14953 by virtue of application no.234252 dated 22.04.1981 for allotment of the plot in RRS, 1981, since the petitioner was also an applicant under the NPRS, 1979, a show cause notice was issued to him to clarify whether any



allotment of flat under NPRS, 1979 had been made to him or not *vide* letter dated 06.12.2007 and further another letter dated 07.06.2012 to which the petitioner had replied *vide* letter dated 17.09.2012 that he was allotted flat no.290 Sector 17, Pocket A, Phase-II against the Registration No.12228 under NPRS, 1979 but the same was cancelled & surrendered by him. The respondent/DDA in its affidavit stated that the Screening Committee had examined the case and it was found as under:-

“As per the clause No. 4 of the terms and conditions of RRS-1981, "Persons who are registered with the DDA under any of its Housing Registration Schemes or New Pattern scheme 1979 are allowed to get their registration transferred to 'Rohini'. They will form a separate block of registration and priority in the matter of allotment will be given to them. Those who desire to get their registration transferred from any of the earlier DDA Housing schemes to Rohini Scheme will pay along with their application the difference between the amount already deposited and the earnest money payable to the Rohini Scheme. While submitting the application, they will be required to surrender the fixed deposit earlier receipt duly discharged and the copy of the challan form in respect of their deposit in that Housing Scheme. Interest on their fixed deposit in the Housing Scheme would be transferred to their new account and adjusted at the time of the final allotment of the plot. They will get interest at the rate off 7% per annum on the amount of interest as calculated upto 31st March 1981. On transfer, the applicant shall have no right to any allotment under the earlier Housing Scheme"

18. In view of the above, it was stated that since the petitioner had an option for transferring from the then existing NPRS, 1979 into RRS, 1981, which was not availed, the Competent Authority approved the report of the Committee, and accordingly, the petitioner has been intimated regarding the withdrawal of the restoration of the registration *vide* letter dated 04.08.2022.



19. The respondents/DDA then also filed an additional affidavit dated 26.08.2023 reiterating its previous stand and further clarifying that the petitioner was not singled out and there were thirty-four such cases out of which, demand and allotment letters were issued in five cases pursuant to directions of the Courts. Reiterating the decision of the screening committee, it was further deposed that the petitioner has been intimated *vide* letter dated 07.11.2022 that his registration under the RRS, 1981 has been cancelled.

20. Without further ado, the stand of the DDA cannot be sustained in law. At the cost of the writ petition, Clause (4) of the RRS, 1981 only provided that on transfer from any other scheme to RRS, 1981, there would be priority for transfer, meaning thereby that the applicants on seeking transfer from one scheme to RRS, 1981 would form a “separate block”. The reading of the clause does not mandate that the eligibility for allotment in RRS, 1981 was only to be affected by way of a transfer from the earlier scheme to the RRS, 1981. Nowhere does the said clause precluded an applicant from curing the ineligibility by way of cancellation of the allotment in the earlier scheme and seeking refund of registration amount paid for the earlier scheme so as to fall back into the eligibility criteria. The bottom line is that as on the date of draw of lots, the petitioner was eligible for being considered for allotment of a plot under the RRS, 1981.

21. In the instant matter, the respondent/DDA has done too little, too late. The petitioner already showed his *bona fide* when he had cancelled the allotment in the NPRS and intimated the DDA of the same in 2007 itself and the DDA even confirmed his eligibility *vide*



letter dated 06.02.2014 (Annexure P5) so much so he even got selected in the draw of lots. Thus, unhesitatingly, the DDA is estopped from taking a contrary view holding the petitioner ineligible for allotment after more than ten years.

22. The DDA has caused unimaginable harassment to the petitioner and has delayed the allotment to the petitioner to an unconscionable extent without any justification. The repeated representations of the petitioner were falling on the deaf ears of the concerned officials of the DDA and the files were just getting transferred from one department to another, until the present writ petition was filed and thereafter, a cancellation letter was issued to the petitioner, probably as an afterthought.

23. In view of the above, the present petition is allowed. Accordingly, the following reliefs are granted to the petitioner;

- (i) A writ of mandamus is issued to the respondents to issue an allotment letter to the petitioner pursuant to draw of lots of allotment of MIG plot bearing no.D-2/49, Sector 29 against the Registration No.234252, Priority No.14953 under MIG category in RRS, 1981 conducted on 28.10.2016, within two months from today;
- (ii) AND simultaneously a direction is issued to the respondents/DDA to hand over the physical possession of the MIG plot bearing no. D-2/49, Sector 29 against the Registration No.234252, Priority No.14953 in terms of the aforesaid details to the petitioner within two months from today;



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- (iii) In the alternative, in case the aforesaid plot has been allotted to any third person in the interregnum, the respondents/DDA shall allot a plot of equivalent size in the same sector i.e. Sector 29, to the petitioner at the rates of land prevailing at the time of computerized draw of lots i.e. 28.10.2016 within two months from today; AND
- (iv) The respondents/DDA are directed to pay a cost of ₹1 lakh to the petitioner for suffering the agony of a long period of harassment and trial, within a month from today, failing which the respondents/DDA shall be liable to pay the said amount with interest at the rate of 6% per annum, from the date of this order till realisation.
24. The pending application also stands disposed of.

DHARMESH SHARMA, J.

OCTOBER 03, 2024

Sadiq/Ch