

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

+ W.P.(C) 1630/2007

VIJAY KUMAR Petitioner
Through Mr.L.B. Rai, Advocate.

versus

DDA Respondent
Through Mr.M.M.Singh, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

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10.04.2008

1. In 1989, the petitioner got himself registered under the Special Housing Registration Scheme for SC/ST Persons by depositing Rs.12,000/-. It is the case of the petitioner that in spite of writing letters, he was not allotted any plot and in these circumstances he had filed Writ Petition (Civil) No. 8305/2006 against DDA. The Writ Petition was disposed of on 23rd May, 2006. The only prayer made in the Writ Petition was that the petitioner should be made aware of the present status of his application. The Court recorded that as per the records produced by the learned counsel for the DDA, allotment was made in favour of the petitioner in 2002 but the postal envelope containing the demand cum allotment letter was returned back with the report "left". In these

circumstances, while disposing of the Writ Petition, it was observed that the petitioner was now made aware of the fate of his application and he should take further action in consultation with his lawyer.

2. The petitioner thereafter moved an application under Right to Information Act and got the details of the allotment made in 2002 as well as detail of the postal envelope containing the demand cum allotment letter. The petitioner has filed the present Writ Petition claiming right to allotment.

3. The stand of the respondent-DDA is that the petitioner was allotted a flat in 2002, but the demand cum allotment letter was received back unserved with the remark "left" and the registration of the petitioner stands cancelled.

4. Learned counsel for the petitioner on the other hand has drawn my attention to several documents filed by the petitioner including the caste certificate issued by the Deputy Commissioner, North District, Delhi, copy of FIR No. 656/2000, copy of telegrams as well as income tax returns which clearly show that the petitioner in 2002-03 was residing at 3734, Kuch Mohaltar Khan, Mori Gate, and had not shifted from the said address. Demand cum allotment letter was sent at this address. The petitioner states that he never received the demand sum allotment letter and the report of postal authority that the petitioner had left the said address was wrong. The voluminous documents filed by the petitioner support the stand of the petitioner. The postal report is wrong.

5. The petitioner has suffered and denied allotment because of wrong endorsements made by the postal authorities stating that the petitioner had left the said address. The postal authorities had only once tried to serve the petitioner. It may be noted here that the respondent also did not make a second attempt to send the letter. No show cause notice was issued before terminating and cancelling the registration of the petitioner. The petitioner had got himself registered in the year 1989 and has waited for more than 18 years since then for allotment of a flat. It is difficult to conceive that the petitioner would have refused to accept the said demand cum allotment letter issued in the year 2002 after waiting for 13 years. Preponderance predicates that the petitioner would have happily accepted the allotment letter had the postal authorities tried to serve the envelope containing the allotment letter on the petitioner. His long wait to have a roof over his head would have come to an end.

6. Keeping in view the above facts, I feel that the petitioner should be given the benefit of another allotment and his registration should not be treated as cancelled. Petitioner will, therefore, be entitled to allotment of a MIG flat on current costs. Allotment will be made within a period of three months from today. If required, DDA will conduct a mini draw.

Writ Petition is accordingly disposed of.

APRIL 10, 2008.
P/VKR

SANJIV KHANNA, J.