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IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment Delivered on: 24.05.2010***

+ W.P.(C) 13309/2009

NARGIS AND ORS Petitioner
Through: Mr.P.Chakraborty, Advocate

versus

DDA AND ORS Respondent
Through: Ms.Sangita Chandra, Adv. for DDA
Mr.Arun Birbal, Adv. for respondent 3.

**CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI**

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

G.S.SISTANI, J. (ORAL)

+ CM NO.6020/2010 in WP(C).NO.13309/2009

1. This is an application for restoration of the petition, which was dismissed on 23.04.2010 for non-appearance. Notice in this application was issued. No reply has been filed. Counsel for respondents submit that they have no objection if the application is allowed. Consequently, application is allowed. Let the petition [WP(C).NO.13309/2009] be restored to its original number and file.
2. Application stands disposed of.

WP(C).NO.13309/2009

3. This is the third round of litigation by the petitioners for seeking allotment of an alternate plot after demolition action, which was carried out on 16.1.1988. The necessary facts for disposal of the writ petition as stated in the petition are : that the petitioners were evicted from pucca and semi pucca houses in Kardam Puri area and

were issued demolition slips after survey and verification of the evictees. On 29.6.1993, a draw was held for the allotment of plots to the petitioner in a resettlement scheme at Kondli after verification of eligibility and they were declared successful for specific plots of 40 sq. yards each in block B and C. Certain complaints were received against some officers of the Slum and JJ Department regarding allotment and holding of draw on 29.6.1993. Thus, the possession of the plots were not handed over to the petitioners. Aggrieved by the action of the DDA, the petitioners herein filed a complaint before the District Consumer Forum. However, the same was dismissed on 27.2.1998 as premature as the case of allotment to the petitioners and others in Kondli resettlement scheme was still under investigation by the CBI. Petitioners thereafter filed a writ petition No.3124/1999 before this Court which was disposed of on 19.8.2002, with a direction to the DDA that the case of the petitioners be considered as per their eligibility for alternate allotment and after consideration, if the petitioners are still aggrieved by the decision of the DDA, they would be at liberty to impugn the order. In compliance with the order of this Court dated 19.8.2002; the petitioners were asked to appear before the Committee on 10.4.2003, with relevant records. However, vide letter dated 7.1.2004, the DDA rejected the case of the petitioners for alternate allotment on the ground that they did not submit supportive documentary evidence like ration cards, voter certificates, driving licences etc.

4. Petitioners thereafter made various representations and met the concerned officers but they did not receive any satisfactory response which led to the filing of another writ petition being WP (C) No.14305-10/2006. This writ petition was disposed of on 21.5.2008, with a direction to petitioners to appear before the Director (Land Management) with all the requisite documents in accordance with the policy of the DDA and in case DDA is satisfied that petitioners are eligible then order of alternative plots in favour of the petitioners be made. Counsel for the petitioners submits that

the petitioners could not appear on 28.5.2008 and thus were asked to appear on 12.6.2008. Female members were asked to appear on 17.6.2008. On the aforementioned dates the parties had appeared and their statements were recorded and were duly countersigned by their counsel. The DDA vide an order dated 6.11.2008, did not find the petitioners eligible. By way of the present petition, the petitioners have assailed the order dated 6.11.2008.

5. Mr.Chakraborty, learned counsel for the petitioners submits that the order dated 6.11.2008, refers to the policy by which the evictees should have genuine and valid ration cards issued on or before 30.5.1986. It is submitted that the petitioners are not governed by the aforementioned policy. He submits that the petitioners had produced copies of the ration cards which were in their possession, and issued to the petitioners in the year 1988. He, however, submits that the petitioners were not aware of any such policy which was relied upon by the DDA and the same has caused serious prejudice to the rights of the petitioners. Mr. Chakraborty further submits that when the identity of the petitioners duly stood established by the DDA only then their names were included in the draw which was held on 29.6.1993. He further submits that copies of ration cards which have been filed, further strengthens the case of the petitioners which would show that the petitioners were residing at the site in question at the time when the demolition action had taken place.
6. Counsel for the DDA submits that admittedly, demolition was carried out on 01.01.1988. The petitioner filed a petition [WP(C)No.3124/1999], which was disposed of by order dated 19.08.1988, by virtue of which, respondent was directed to communicate to the petitioner the decision on the issue of their eligibility for allotment of plots.
7. Ms.Chandra, submits that DDA on considering the same, passed an order on 07.01.2004, by which petitioners were informed that they had not submitted any documentary evidence, such as ration card,

election card, voters certificate, driving licence etc., in support of their identification, hence their case was rejected. The petitioner admittedly filed another petition [WP(C)No.14305/2006] which was also disposed of by an order dated 21.05.2008, directing the petitioners to appear before the Director (Land Management), copy of which has been handed over by counsel for the petitioners in court today. As per this order, petitioners were directed to appear before the Directorate (Land Management), with all requisite documents in accordance with the policy of the DDA. It is submitted that in case the DDA was satisfied that petitioners were eligible, the order of alternate plot in favour of the petitioners as per the policy was to be made within a period of one month from the date of hearing.

8. Admittedly, petitioners appeared on three dates as mentioned in paragraph foregoing and the DDA found the petitioners ineligible. Counsel for the DDA submits that CBI had investigated into the matter and found that the allotments had been made without following due process of law and accordingly the entire allotment process was set aside. She further submits that the respondents have carefully scrutinized the documents submitted by the respondents not once, but on two occasions, but the petitioners were found to be ineligible. She further submits that a bare reading of the order passed by this Court on 21.05.2008 in the petition [WP(C)No.14305-10/2006] would show that DDA was relying upon a policy and in fact the Court directed the DDA to consider the case of the petitioners based on the policy of the DDA.
9. I have heard counsel for the parties and also perused the pleadings on record. Counsel for respondent has relied upon policy dated 08.05.1989 and office order dated 12.09.2003, which are reproduced below:

“ORDERS

Sub: Policy guidelines for Alternative Allotment.

The Land Protection Branch has been undertaking action

against unauthorized encroachment on land owned by DDA as well as from the land under the control and management of D.D.A. and alternative allotment of development of developed plot is also being done to the eligible evictees. It has been decided that henceforth the removal of jhuggies on or after 1st January, 1989, the alternative allotment of plot would be made if the following conditions are fulfilled:

- a) Genuine and valid ration card issued on or before 30th day April, 1986, by the Food & Civil Supply Department, Delhi Administration, to the head of the family whose jhuggi has been demolished.
- b) Ration card should be only for the area from where the removal operation was undertaken.
- c) The survey of the jhuggi cluster should be done in triplicate, as per the proforma enclosed. The original copy of the survey should be passed on a properly page numbered register for permanent record. The second copy be utilized for processing the case on the file and the third copy for the records of alternative allotments.
- d) After allotment of an alternative plot, endorsement to this effect be made prominently at page No.1 of the original ration card.
- e) The demolition slips as well as the alternative allotment letters would be issued under the signatures of the concerned Jt. Director/ Dy. Director.
- f) New demolition slip book should be issued only after surrender of fully used Demolition slip book.
- g) A copy of the allotment letter be endorsed to the concerned A.E. and a consolidated list of alternative allotments for removals from cluster be sent to the concerned Executive Engineer within a week.
- h) The allotment of individual plots would be made by draw of lot from amongst the eligible for a particular removal operation.
- i) The jhuggi cluster having jhuggies 50 or less, are to be surveyed under the guidance and supervision of the concerned Dy. Director. For cluster where the number of jhuggis encroachers are more, individual cases be put up to Commissioner (L), for approval/ order as to whether the survey/ enquiry is to be conducted internally or through some outside agency like S.D.M.

This issues with the approval of V.C.”

“No.F.1(121)/89/DD/LP/East/664

Dated :12/9/03

ORDER

Sub: **Guideline for alternative allotment.**

In addition to the conditions mentioned in Order No.PSD/DLM/89/2628 dated the 8th May, 1989, as enclosed herewith following conditions should also be fulfilled by evictees for demolition carried out in 1988.

1. Evictees have paid initial payment of Rs.3000/- in the year 1988, therefore, the final premium has to be calculated by the Finance Deptt. and after the calculations final demand

shall be raised and based on this demand, lease shall be executed.

2. Evictee has to produce any one document like domicile certificate, identity Card/ Ration card issued before May, 2003 as proof that they are living in Delhi presently and such evictees are only eligible for allotment of plot at this stage to check misuse of demolition slip by other than genuine evictee. An affidavit should also be furnished by evictee that none of his family member own a house/ plot in Delhi for residential purpose.
3. Allotment of alternative plot is subject to the result of disposal of SLP No.13166-3167/2003 titled as Union of India Vs. Okhla Factory Owner Association.
4. In case of death of the evictee, legal heir can claim the allotment if he is having the legal heir certificate and his name appeared in the Ration Card issued prior to 30.5.1986 of the original allottee.
5. Committee consisting of Dy. Dir. (LM)/EZ, Dy. Director (LM)/ NZ and Dy. Dir. (LAB)/ Res. will look into the genuineness of the applicant for allotment of alternative plots according to above guidelines.

(Binay Bhushan)
OSD (LM)- I"

10. Based on the aforesaid policies, the petitioner was to produce genuine and valid ration card issued on or before 30.04.1986 and should also be for the area for where the removal operation was undertaken. Counsel for respondent- DDA also submits that petitioners did not fulfill the criteria laid down by the aforesaid two policies of the DDA and thus their case of alternative allotment was rejected. It would be useful to reproduce impugned order dated 07.01.2004:

"No.5308/SSK/3067/EZA/92/32

Dated: 7/1/04

To,

Smt.Nargis w/o.Shri Sardar Khan,
A-148, Kabuter Market,
Welcome, Seelampur,
Delhi-32

Consequent upon the directions of the Hon'ble High Court of Delhi dated 19.8.2002 in CWP No.3124/99, you have been called to appear before the Committee on 10.4.2003 along with any proof of your identification to verify the genuineness for allotment of alternative plot in New Kondli re-settlement colony.

When you were appeared before the Committee, you have not submitted any documentary evidence in support of your identification like recent Ration card, Election card, Voter certificate, Driving licence etc. Hence, your case has been rejected for alternate allotment."

11. The petitioners have failed to fulfill the eligibility criteria and have failed to provide necessary documents. In the absence of the documents, I find no grounds to interfere in the order passed by the DDA. The writ petition is accordingly dismissed.

CM.Nos.14611/2009, 1952/2010 & 7143-44/2010

12. In view of the order passed in the writ petition, applications stand disposed of.

G.S. SISTANI, J.

May 24, 2010
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