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

+ W.P.(C) 830/2010

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Judgment dated 30.10.2012

SHRI MAHENDER PAL SIKRI Petitioner
Through: Ms.Richa Kapoor, Advocate

versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through: Mr.Arjun Pant, Advocate

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

G.S.SISTANI, J (ORAL)

1. Since the pleadings in this matter are complete, with the consent of counsel for the parties the matter is set down for final hearing and disposal. It may be noticed that during the pendency of the matter the petitioner died and his legal heirs have been brought on record for the sake of convenience, the word petitioner will include the legal heirs of the petitioner (since deceased).
2. The petitioner registered himself with the DDA under the New Pattern Registration Scheme 1979 (NPRS, 1979) for allotment of a MIG flat vide registration No.43751 and deposited a sum of Rs.4,500/- towards registration charges. As per the writ petition, in the registration form, the petitioner had mentioned two addresses for future correspondence (i) his residential address i.e. A-72, Kirti Nagar, Delhi-110 015 and (ii) occupational address i.e. Krishna Label Company BB-188, Gali No.9, New Rohtak Road, (Industrial Area, Anand Parbat), New Delhi-110 005. The petitioner also annexed his salary certificate dated 28.09.1979 on the employer's letter-head i.e. of Krishna Label Company.

3. It is further stated in the petition that there were large number of registrants in comparison to the number of flats for allotment under the NPRS 1979 and the allotment of flats were moving at snail's pace. It is also the case of the petitioner that in the month of May, 2009 when petitioner attended a public hearing in the office of respondent, he was shocked to learn that he was allotted a flat in Jahangir Puri, Delhi, whereas he never received any intimation in this regard, despite his having waited for 30 years for the allotment of a flat. Thereafter, petitioner approached the officials of the respondent to obtain the details with regard to his allotment and learnt that his priority matured in the year 1999 and flat bearing No.320, third Floor, Jahangir Puri, Delhi had been allotted to him. Petitioner thereafter issued a communication to the respondent on 02.06.2009 requesting the respondents to issue a fresh demand-cum-allotment letter, as he had not received the first demand-cum-allotment letter. The petitioner also intimated his fresh permanent address to the respondents.
4. As per the writ petition, the demand-cum-allotment letter issued to the petitioner was returned undelivered and is available in the original file of the DDA. It is submitted that it was incumbent upon the DDA to issue a fresh demand-cum-allotment letter at all the addresses available with the DDA in their file, including the occupational address, which was available in the original file. It is also submitted that several oral requests and representations were made by petitioner to the respondent but DDA did not respond to the petitioner. Under these circumstances the petitioner prays that an MIG flat preferably in the same locality and at the cost as per the policy may be allotted to him. Counsel for the petitioner has relied upon the judgment passed in the case of **Sudesh Kapoor Vs. DDA** Writ Petition No.8174/2006, wherein Sudesh Kapoor preferred the writ

petition because DDA failed to send her demand cum allotment letter at occupational address. In the case of Sudesh Kapoor also because of change in residential address, demand letter remained undelivered. Relying upon the earlier judgment of this Court in **Hridaypal Singh Vs. DDA** reported in 2007 (II) AD (Delhi) 705, this court allowed the Writ Petition of the petitioner holding that the rationale of the earlier judgment was fully applicable to the present case and held that it was obligatory on the DDA to send the demand letter to every address available in the file and DDA was directed to issue a demand letter to the petitioner of a flat in the same locality and of the same size and charge the petitioner the cost which was applicable in the year when the allotment was made in accordance with the policy decision dated 20.12.2002.

5. Counsel for the petitioner has also relied upon **Thakur Das Vs. DDA** [WP(C)No.6287/2006] wherein the petitioner though had not formally informed the DDA about the changed residential address but since he had mentioned his occupational address in the registration form which remained unchanged and in all the subsequent correspondence the petitioner had stated his occupational address, the action of the DDA in including his name in the second draw and thereafter cancelling the allotment without sending the demand letter at the occupational address despite the fact that the demand letter of second draw sent to the petitioner was not returned undelivered, the court allowed the Writ Petition and held that the DDA cannot plead prejudice. The DDA preferred an appeal being LPA No.1123/2007 which was subsequently dismissed.
6. Counsel for the petitioner has further relied on the case of **Bhagwan Dass Vs. DDA** [WP(C)No.3752/2006] wherein the DDA proceeded to cancel the allotment of the petitioner for non-payment when the petitioner never received the demand letter. The DDA proceeded to take a contradictory

stand first admitting that the demand cum allotment letter sent to the petitioner at his residential address was returned undelivered on the one hand, and then that the said demand letter was sent by speed post and was never received back on the other hand. The court held that either way DDA did not attempt to send the letter at the office address of the petitioner which was stated in salary certificate, affidavits etc. filed alongwith the registration form and allowed the writ petition.

7. The present petition is opposed by counsel for the DDA, firstly on the ground of delay and laches. It is contended by counsel for the DDA that the petitioner has slept over his rights for 10 years and further the petitioner should have approached the DDA to enquire about the status of his priority number. It is further submitted that the DDA had given a press notice in the leading newspapers on 19.10.2002 wherein all the successful allottees of various draws who had not received their respective demand-cum-allotment letters were requested to collect the same from the office of Deputy Director (MIG), Housing, DDA within 15 days from the date of publication of the notice, failing which the allotment stands cancelled. It is also submitted that after the closure of the MIG Scheme under NPRS 1979, the petitioner shall be entitled only for refund of his registration money as per the policy and not for allotment of the flat.
8. I have heard counsel for the parties. It is not in dispute that the petitioner had made an application under the NPRS 1979 for allotment of a MIG flat in the year 1979 and his priority matured on 27.09.1999 and a demand-cum-allotment letter was issued to the petitioner. It is also not in dispute that this demand-cum-allotment letter was not received by the petitioner, which is evident from the original record, which has been produced by counsel for the DDA, which shows that the letter was returned back undelivered. It is also not in dispute that the petitioner had provided his

occupational address as well, which is also evident from the original record produced in the court today. It has been repeatedly held by this court that if a demand-cum-allotment letter is returned back undelivered, it is mandatory for the DDA to issue a demand-cum-allotment letter at all the addresses available in their file.

9. In this case admittedly, despite the occupational address being available with the DDA, the DDA for the reasons best known to them did not send a fresh demand-cum-allotment letter to the petitioner at the occupational address.
10. In the case **Hridaypal Singh Vs. DDA**, reported at 2007 (II) AD Delhi 705 it has been held that it was obligatory on the DDA to send the demand letter to every address available on the file. Para 5 of the same reads as under:

“To the Court it appears that the intimation of allotment ought to have been set not only to the present address available on file but, if the allotment letter was returned undelivered, to the permanent address as well. From the point of view of the DDA this would have not only cost nothing to the DDA but it would have ensured that the DDA has made every possible effort to reach the allotment letter to the petitioner. From the petitioner’s perspective, despite having intimated to the DDA his permanent residence, its failure to send the allotment letter there, meant that it resulted in the cancellation of his allotment. The loss to the petitioner of an allotment, for which he had been waiting since 1979, would indeed be far greater in such a situation. It must be realised that as a condition of eligibility for allotment of a flat under the NPRS 1979 an applicant should not own any other permanent residence. It is not difficult to imagine that persons who do not own premises in this city are quite likely to rent a residence and also periodically shift such residence taken on rent. Therefore, while it is certainly the obligation of such applicant to inform the DDA of the change of address, there is also a corresponding obligation of the DDA to attempt to send the allotment letter to every possible address of the applicant that has been intimated to it and is available on its records.”

11. Since the demand-cum-allotment letter was not sent to the petitioner at the occupational, address, the petitioner must succeed.
12. Accordingly, present writ petition is allowed. The name of the petitioner will be included in the next draw of lot, which shall be held within three months from receipt of this order, and thereafter an MIG flat shall be allotted to the petitioner and the cost will be charged by the DDA as per Circular dated 13.10.2011. No costs.

G.S.SISTANI, J

OCTOBER 30, 2012

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