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

+ W.P.(C) 8283/2011

% **Judgment dated 05.12.2012**

GAURAV GANDHI

..... Petitioner

Through : Mr.R.K. Saini and Mr.Vikram Saini,  
Advs.

versus

DDA

..... Respondent

Through : Ms.Manika Tripathy Pandey and  
Mr.Ashutosh Kaushik, Advs.

**CORAM:**

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

**G.S.SISTANI, J (ORAL)**

1. Pleadings are complete in this matter.
2. Rule. With the consent of counsel for the parties, present writ petition is set down for final hearing and disposal.
3. The necessary facts, to be noticed for disposal of the present petition, are that the father of the petitioner had registered himself under New Pattern Registration Scheme, 1979, for allotment of an LIG flat. At the time of registration, two addresses were provided by petitioner to the DDA - residential address being Flat No.884/1212, Paschimpuri Janta Flats, Pocket-2, New Delhi, and the occupational address being C/o Shri Sant Lal Gupta, B-137, Shakurpur, J.J. Colony, Delhi. In the year 1991, the father of the petitioner had shifted his residence from 884/1212, Paschimpuri Janta Flats, Pocket-2, New Delhi, but did not inform the DDA about the same. The priority of the allottee matured in the year 2000. An allotment-cum-demand letter was sent at the residential address, however, the same was returned undelivered to the DDA. Admittedly, the DDA did not send the demand-cum-allotment letter at the occupational

address, which was available in the records of the DDA. Thereafter the allotment made in favour of the allottee was cancelled.

4. As per the petition, the father of the petitioner died in the year 2009. According to the petitioner till that date his father had no knowledge about the allotment of any flat in his favour. The petitioner appeared in a public hearing held in the year 2010 when he learnt that a flat was allotted to his father in the year 1992. The petitioner submitted a representation to the DDA on 15.7.2010 pointing out to the DDA that demand-cum-allotment was not received by either his father or by him. The petitioner also brought to the notice of the DDA that his father had died in the year 2009 and sought substitution of his name. On 23.8.2010 petitioner also submitted necessary documents with the DDA for mutation of registration in his name. During the process of mutation, the petitioner learnt that a LIG Flat no.114-G, Pocket A-3, Kondli Gharoli, Delhi, was allotted to his father in the year 1992 and a demand-cum-allotment letter was sent at the residential address i.e. Flat No.884/1212, Paschimpuri Janta Flats, Pocket-2, New Delhi, which was returned to the DDA undelivered. Thereafter the petitioner made representations to the DDA on 15.7.2010 and 18.7.2011 explaining the facts and also requested DDA to allot an alternative flat. Since reply to the representations was not received, the petitioner visited the office of the DDA and was informed that mutation would be done in his favour only for the purpose of refund of registration amount.
5. Learned counsel for the petitioner submits that this Court has taken a consistent view in various decisions rendered from time to time that in case more than one address of the applicant is available on record of the DDA and the demand-cum-allotment letter sent is returned undelivered to DDA from either of the addresses, the DDA shall send the same to the other addresses of the applicant, available in its record. In support of this

arguments, counsel for the petitioner has placed reliance on *Prem Bhatnagar v. Delhi Development Authority*, W.P.(C) 592/2011; *Mohinder Singh v. Delhi Development Authority*, W.P.(C) 1096/2011; and *Sudesh Kapoor v. D.D.A.*, W.P.(C) 8174/2006.

6. Present petition has been opposed by counsel for the respondent on the ground of delay and laches. Counsel for the respondent submits that the father of the petitioner did not take any step to approach the DDA for non-receipt of demand-cum-allotment letter and, thus, the petition must be dismissed on the ground of delay and laches. It is also the case of the DDA that DDA is not duty bound to issue demand-cum-allotment letter at the occupational address and it was for the petitioner to inform DDA with regard to change of his address.
7. I have learned counsel for the parties and considered their rival contentions. The basic facts of the case are not in dispute that the father of the petitioner had registered himself under New Pattern Registration Scheme, 1979, for allotment of an LIG flat. At the time of registration two addresses were provided by the father of the petitioner to the DDA, being residential address and occupational address. In the year 1992, the father of the petitioner shifted his residence from 884/1212, Paschimpuri, Janta Flats, Pocket-2, New Delhi. The father of the petitioner died in the year 2009. The petitioner approached DDA in the year 2010 to enquire about the status of allotment and learnt that a flat had been allotted to his father in the year 1992. The petitioner thereafter made a representation to the DDA. The petitioner also sought substitution of his name. The petitioner learnt that demand-cum-allotment letter was sent at the residential address, which was returned to the DDA undelivered.
8. It is the case of the petitioner that in case the demand-cum-allotment letter sent at one address of the applicant is returned undelivered, DDA should

send the same at other addresses of the applicant available in its records.

9. In the case of *Hirdayapal Singh v. DDA*, W.P. 15002/2006, this Court had held that it is obligatory on the DDA to send the demand-cum-allotment letter at every address available in their file. Para 5 reads as under:

“5. The short question here is whether the DDA was justified in cancelling the allotment in the facts and circumstances of the case. The records of the case with the DDA have been perused. It is clear that DDA made a note of the change of address intimated to it by the petitioner's letter dated 4.11.1993. The DDA therefore took note not only of the present changed address of the petitioner as indicated in that letter but also the permanent address indicated therein. Apart from stating that it was under no obligation to send such allotment letter to the permanent address, there is no other explanation given by the DDA as to why it could not have sent the allotment letter to the permanent address as well. 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.”

10. Since it is not in dispute that demand-cum-allotment letter was received

back undelivered by the DDA, in my view DDA was duty bound to send the same at the occupational address of the petitioner, which was available in the file of the DDA. The Court cannot lose track of the fact that the petitioner had made an application under NPRS, 1979, and allotment in respect of this scheme was made over a span of two decades. Thus it was not unusual for an applicant to expect that his turn soon would reach and, thus, the petitioner could reasonably expect that DDA would take time to make the allotment.

11. In this case while the petitioner should have informed the DDA with regard to change of his address, there is no explanation rendered by DDA as to why after the demand-cum-allotment letter was returned DDA did not issue the same to the petitioner at his occupational address, which was available in its record.
12. Accordingly, writ petition is allowed. Rule is made absolute. DDA will allot a flat to the petitioner preferably in the same area within three months from today, however, to balance the equities the petitioner will not be given benefit of the rates of the year when his priority matured but on account of delay for approaching this Court the petitioner would be entitled to a flat at the rate when the writ petition was filed by him i.e. in November, 2011. All formalities be complied with within three months of the receipt of the order.
13. Writ petition stands disposed of. No costs.

**G.S.SISTANI, J**

**DECEMBER 05, 2012**

msr