

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

**DECIDED ON: 22<sup>nd</sup> April, 2013**

+ LPA No. 504/2005

DELHI DEVELOPMENT AUTHORITY

..... Appellant

Through: None.

versus

PURAN LAL

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

% **MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)**

1. By this appeal, the Delhi Development Authority (hereinafter referred to as 'DDA') challenges the judgment and order of the learned Single Judge dated 04.10.2004 allowing the WP (C) No. 747/2003 preferred by the respondent Puran Lal (hereinafter referred to as 'petitioner') under Article 226 of the Constitution. The petitioner had sought for quashing of the DDA's order cancelling his allotment of plot No. B-690, given of his *bona fide* occupancy of a jhuggi complex in Sawan Park.

2. The brief facts necessary for deciding the present case are that the petitioner was a Jhuggi dweller in Sawan Park. The DDA and other authorities apparently drew a scheme for demolishing of Jhuggis and rehabilitation/re-settlement of its bona fides residents. The writ petitioner, apparently, was determined as one of the bona fide residents of a jhuggi cluster and allotted a plot. Some time in 2001, the DDA had sanctioned the building plan for construction of premises upon the plot. Subsequently, the

DDA issued a show cause notice on 02.5.2002, proposing to cancel the allotment, alleging that the petitioner had suppressed that his name figured along with that of his father, (allottee of an alternative plot) in a common ration card and he was thus disentitled for allotment of an alternative plot. The petitioner had replied to the notice on 22.5.2002; nevertheless the DDA proceeded to issue an impugned order, cancelling the allotment and directing the petitioner to hand over the vacant and peaceful possession of the plot to it.

3. The basis for the DDA's decision is to be found in its show cause notice which, inter alia, stated as follows :

*“The above-mentioned plot was allotted to you under the scheme of alternative allotment of plot to the Weavers/Jhuggi dwellers of Sawan Park. The documentary evidence of your residence produced by you, was copy of a ration card No. 5498 against which another alternative plot bearing No. B-491 was allotted to your father Sh. Man Singh. Originally, the ration card was in the name of your father namely Sh. Man Singh containing your name as one of the members of his family. You are therefore directed to show cause as to why the allotment of the above said plot, made in your name, may not be cancelled. Your reply should reach to this office within 15 days from the date of issue of this letter, failing which the allotment of plot No. B-690 will be cancelled without any further notice to you.”*

4. The petitioner had contended before the learned Single Judge that the existence of his name and that of his father in a common ration card dated 01.1.1983 was not determinative of his allotment of an alternative plot. In his reply dated 22.5.2002, he stated that his allotment was preceded by at least two spot verifications: a process whereby residents were asked to report by the DDA to ascertain the place for verification of their claims and

further verification pursuant to directions of the court which had directions in another writ petition which had cancelled the earlier allotment made. All these contentions are apparent in the averments made in the writ petition filed in this regard especially in paragraphs No. 6 to 23. Nevertheless the DDA was of the opinion that the reply given by the writ petitioner was wanting and it accordingly proceeded to cancel the allotment.

5. The learned Single Judge in the impugned order noticed that the reply/response to the writ petitioner's reply dated 22.5.2002 had brought out the fact that the DDA conducted a survey at site to identify *bona fide* jhuggi dwellers, during which documents were verified at the spot. Ration cards were not the basis of allotment and there were numerous instances where despite a single ration card, more than one jhuggi was in possession of the family members; the ration card seized to be issued to residents of the jhuggi dwellers from 1986 and that such ration cards were issued only after 15.3.1990. The learned Single Judge also took into consideration the DDA's contention that petitioner's residence as well as that of his father were same in the ration card. At the same time, the learned Single Judge also noticed that notwithstanding issuance of one ration card, the petitioner and his father were residing separately in two jhuggis which was verified during inspection when their names were mentioned in the approved list. The learned Single Judge held that:

*“8. Petitioner had made it clear to DDA that ration card was not the basis of allotment of alternative site when the jhuggi cluster at Sawan Park was being shifted. Petitioner had pointed out that identification of jhuggi dwellers was by spot verification. Petitioner had pointed out that there were numerous instances where a family had a single ration card but was occupying more than*

*one jhuggi site. Petitioner had pointed out that relocation was effected in the context of jhuggi sites occupied.*

- 9. In spite of being informed of the basis of allotment of alternative plot, DDA proceeded to consider eligibility predicated only on the issue of ration card.*
  - 10. Basis on which DDA has proceeded is patently illegal. Admittedly, relocation of jhuggi dwellers was done in the context of jhuggi site in occupation. Petitioner had drawn attention of DDA to aforesaid fact.*
  - 11. Impugned order contains no reasons. It does not direct itself to the issues raised. The order has to be quashed. Ordered accordingly.*
  - 12. Should DDA be permitted to continue with the proceedings is what requires to be further adjudicated?*
  - 13. Counter affidavit filed by DDA does not dispute that on being allotted a separate plot other than the one allotted to his father, petitioner not only paid the requisite sums but even obtained clearance to raise a building at site. Pursuant to the sanction granted the petitioner has erected a building. In the show cause notice, it is not alleged against the petitioner that he has played any fraud or that of allotment of an alternative plot is a result of any conspiracy.*
  - 14. Equities have settled in favour of the petitioner. He has not only paid for the alternative plot but has even constructed building thereon. DDA would accordingly not be permitted to pass any fresh orders against the petitioner.”*
6. This Court has considered the submissions urged by the DDA in its grounds of appeal. Neither the counter affidavit filed in the writ proceedings

nor in the grounds of appeal had the DDA dispute the fact that spot verification took place on more than one occasion and not merely at the time the scheme was conceived in the year 1984-85. The averments made in the writ petition elaborately deals with the various sequence of events which warranted the allotment of the writ petitioner. Earlier, the procedure adopted was disapproved and the allotments were cancelled. Thereafter, a fresh verification process was undertaken sometime in mid 1990s during which too the petitioner's separate residence was duly verified. This was the basis for the inclusion of his name in the list of approved jhuggi dwellers who were offered allotment of alternative plots. All this is evident from the pleadings of the parties; in the writ petition as well as the grounds urged in support of the DDA's appeal. Having considered this, the Court is satisfied with the reasoning of learned Single Judge about the untenability of the DDA's action for cancellation of the petitioner's allotment merely because his name as well as that of his father figured in a common ration card was not warranted. This Court is satisfied that the said reasoning is sound and unexceptional. The appeal is meritless and, therefore, dismissed.

**S. RAVINDRA BHAT, J**  
**(JUDGE)**

**NAJMI WAZIRI, J**  
**(JUDGE)**

**APRIL 22, 2013**  
**mv**