

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

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Date of Decision: 29.04.2013

+ W.P.(C) 2902/2011

SATYAPAL MONGA

..... Petitioner

Through: Mr. N. Kinra, Adv.

versus

DELHI DEVELOPMENT AUTHORITY Respondents

Through: Ms. Kanika Agnihotri, Mr. Vaibhav
Agnihotri and Ms. Niharika, Advs. for DDA

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner before this Court got himself registered with DDA for allotment of a residential flat under its New Pattern Residential Scheme, 1979 (for short NPRS-79). An MIG flat at Narela was allotted to the petitioner in the year 1993. Since the petitioner was not interested in accepting the aforesaid allotment, he got it cancelled and a letter dated 19.5.1993 was issued to him by DDA, informing him, with reference to his letter dated 23.4.1993 that the allotment made to him had been cancelled at his request.

2. DDA came out with a policy in the year 2003 for including the names of the persons who had got the allotment cancelled, in the end and this policy was termed as 'Tail-end Policy'. The said policy which is annexed to this petition reads as under:

“Before 31.12.93, there was a scheme for those allottees who do not accept the allotment made to them time to time and opted for placement of their priority at the tail end to be considered for next allotment, the case was submitted to commissioner(H) on 19.6.2003 and accordingly it was decided that we may give press notice for up-to-dating the record of the registrants to whom tail end priority is to be assigned as there is no such record available in the office and accordingly public notice was given and the same was published on 4.7.2003, in the times of India which can be glanced:

Subsequently another notice was given in the Newspaper on 27.1.2004 where it was stated that main list of NPRS – 1979. And conversion cases from Janta /LIG to MIG has already been covered for allotment. Now the tail end cases who have applied for tail end up to 31.12.93, will be taken up for allotment Registrants who have been allotted tail end priority or those who have applied till 31.12.93, were requested to contract DD(MIG) along with their original record. Accordingly, the record of the tail end priority has been updated and during the course updating of the record, following cases came to the notice and are submitted for kind approval of the competent authority.

1. The cases where tail end priority has been allotted taken out from Registrations Record register no. 1 to 36.
2. The registrants to whom tail end priority has not been assigned but they have deposited the cancellation charges making them eligible for allotment of tail end priority and also allotment of the flat.
3. The cases where registrant had been intimated that their case has been considered for allotment of tail end priority but they have not been intimated the cancellation charges to be deposited, as such they have not been allotted priority. Since we have not intimated them the amount they become eligible for inclusion in the draw for allotment of flat as tail end.
4. The cases where DDA has intimated about the

cancellation charges of the flat and also to deposit the cancellation charges but failed to deposit the same, hence they are not found eligible for allotting tail end priority and also for allotment of flat.”

A perusal of the aforesaid policy placed on record by the petitioner would show that before 31.12.1993 there was a scheme for those who did not want allotment to them from time to time and had opted for placement of their priority at the ‘Tail-end Policy’ to be considered in the next allotment. Sometime in the year 2003, DDA decided to give a public notice for the purpose of updating record of the registrants to whom ‘Tail-end Policy’ was to be assigned under the aforesaid policy. This was done because DDA did not have any record available with it with respect to such registrants. Accordingly, a public notice was given and published in “*Times of India*” on 4.7.2003. This was followed by a subsequent notice dated 27.1.2004.

3. It would thus be seen that though DDA had a policy for including the names of the persons who had got the earlier allotment cancelled, at the tail-end of the list, the person seeking such placement was required to apply to DDA to include his name in the tail-end of the list. Even otherwise, it is only logical to say that DDA cannot include the name of a person in the tail-end list unless a request in this regard is made because no allotment can be thrust by DDA upon an unwilling registrant.

4. The allotment of residential flat came to be allotted to the petitioner in the draw of lots held on 29.12.2010 and an allotment-cum-demand letter dated 14.2.2011 was issued to him requiring him to deposit a sum of Rs.1694664.93 as initial deposit along with interest stipulated. In the said letter, the aforesaid amount could be deposited by 16.8.2011.

5. There is no record of the petitioner having applied to DDA at any time prior to 19.5.2010, for including his name in the tail-end list. As per the record of DDA, it was only vide letter dated 19.5.2010 received by the concerned branch on 25.5.2010 that a request was for the first time made by the petitioner for allotment of a flat as per its 'Tail-end Policy'. A perusal of the aforesaid letter would show that it contains no reference to any earlier letter, requesting DDA to include the name of the petitioner in the tail-end list. Even otherwise, this is not the case of the petitioner that he had written any letter to DDA at any time prior to 19.5.2010 seeking inclusion of his name in the tail-end list. The petitioner wrote two letters to DDA prior to 20.5.2010. The first letter written by him was for change of address on 14.10.2004. A perusal of this letter would show that the petitioner intimated change of address to DDA but did not make any request for including his name in the tail-end list. The second letter was written by the petitioner on 2.8.2006 and even in this letter there was no request to DDA to include the name of the petitioner in the tail-end list. The only request in this letter was to allow the petitioner to know how much time it would take for him to "*collect his flat*". The request to put the name of the petitioner in the tail-end draw came to be made only vide letter dated 19.5.2010 though the petitioner has not placed on record the copy of the aforesaid letter.

6. A perusal of the record would show that the name of the petitioner was included in draw of lot held on 29.12.2010 and the allotment letter came to be issued to him on 14.2.2011. There was no inordinate delay on the part of DDA in including the name of the petitioner in the tail-end list and making allotment under its 'Tail-end Policy', once the letter dated 19.5.2010 was received by it. Since it is the petitioner who was at fault for not making any request to DDA for including his name in tail-end list prior to 19.5.2010, he cannot seek allotment of flat at the price

prevalent in the year 2004. In these circumstances, DDA, in my view, was justified in charging price prevalent at the time allotment was made to the petitioner.

7. The petitioner did not deposit the price of the flat in terms of allotment letter dated 11.2.2011 issued to him by DDA. The last date for making payment in terms of the aforesaid allotment letter was 16.8.2011. The letter contained a clause of automatic cancellation in case the initial deposit was not paid by 16.8.2011. This Court did not stay cancellation of the allotment made to the petitioner during pendency of the writ petition. As a result, the automatic cancellation clause came into force and at present there subsists no allotment in favour of the petitioner. In fact, it is also not known, whether the flat which was allotted to the petitioner, in the year 2011 is still available with DDA or stands allotted to some other person.

The petition is devoid of any merit and is hereby dismissed. It would, however, be open to the petitioner to apply to DDA for restoration of the allotment made to him vide letter dated 11.2.2011. There shall be no orders as to costs.

V.K. JAIN, J

APRIL 29, 2013/rd