

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

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Date of Decision: 03.12.2013

+ WP(C) No.4994 of 2012

SARDAR GURMUKH SINGH

..... Petitioner

Through: Mr. H.K. Chaturvedi, Ms. Anjali
Chaturvedi, Advs.

versus

GOVT.OF NCT OF DELHI AND ANR

..... Respondent

Through: Mr. Nishant Pratap for Mr Parvinder
Chauhan, Adv. for R-2
Ms. Ruchi Sindhwani with Ms.
Bandana Shukla, Advs. for R-1

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (Oral)

The petitioner before this Court claims to be a victim of 1984 riots which took place in Delhi. According to the petitioner, his house bearing number 211, K-1/17 was set on fire and his shop was destroyed by the rioters. DD No.9A dated 1.11.1984 is alleged to have been lodged in this regard at Police Station Mangolpuri. On 3.6.1990, the petitioner was paid Rs.4,000/- as monetary relief. On 17.10.2006, the petitioner was again paid a sum of Rs.36,000/- as monetary relief for damage of property and goods etc. It appears that the petitioner also applied for allotment of a flat under a scheme for allotment of flats to the victims of 1984 riots. Vide letter dated 6.1.2009, issued from the office of Deputy Commissioner (NW), Kanjhawala – Delhi-110081 the petitioner was informed that his case was considered by the

Competent Authority i.e. Divisional Commissioner, Delhi and rejected as he had not been granted any *ex-gratia* relief of 1984 riots for death/damage Property/ Injury. Being aggrieved from the said communication, the petitioner filed W.P(C) No.6528/2010 which came to be decided by this Court on 19.5.2011. A perusal of the said order would show that in the counter affidavit filed by the Government of NCT of Delhi, it was admitted that the petitioner was a 1984 riot victim who had been paid enhanced compensation. As regards allotment of flat, it was submitted that the Government of NCT of Delhi does not have any policy for allotment of flats to 1984 riots victims, which was the subject matter of Slum & JJ Department. A copy of the counter affidavit filed in the said writ petition is available at pages 40-41 of the paper book. In the aforesaid counter affidavit, it was admitted in para 3 that the petitioner was paid enhanced compensation amounting to Rs.36,000/- regarding damage to his property besides earlier compensation of Rs.4,000/- paid to him.

2. Pursuant to the order passed by this Court on 19.5.2011, the respondent no.2 – Delhi Urban Shelter Improvement Board, vide letter dated 19.9.2011 requested the SDM – Kanjhawala to send eligibility-cum-offer letter so that they could initiate further action in the matter. It was stated in the said letter that as per the prevailing practice, the Board was allotting flats on the basis of eligibility letter issued from his department. Thus, the stand taken by the Delhi Urban Shelter Improvement Board was that they were allotting flats to the victims of 1984 riots and the eligibility for such allotment was to be determined by the concerned SDM. The aforesaid letter dated 19.9.2011 was followed by a reminder dated 26.12.2011.

3. Vide letter dated 17.1.2012, the Govt. of NCT of Delhi – Office of the Deputy Commissioner (Revenue), District – West, Kanjhawala, referring to the order dated 19.5.2011 passed by this Court in W.P(C) No.6528/2010, informed the Delhi Urban Shelter Improvement Board as under:

2. The said property does not belong to Revenue Department but belongs to DUSIB and as such the responsibility of allotments, upkeepment and safety of these flats is subject matter of DUSIB.
3. The copy of Joint survey of 2000 by Tehsildar (Model Town) and officials from erstwhile Slum & JJ Dept. of MCD is enclosed.
4. DUSIB may take appropriate decision in this matter.

Vide letter dated 10.7.2012, the Delhi Urban Shelter Improvement Board informed the petitioner that his case had been examined and the name of the petitioner is not found in eligible 1984 riot victims list and, therefore, his request for allotment of flat under 1984 riots victims cannot be considered.

4. In its counter affidavit, filed in the present writ petition, the Delhi Urban Shelter Improvement Board has *inter alia* stated that after large scale violence that followed the assassination of the then Hon'ble Prime Minister, the government came up with various rehabilitation/ compensation policies for the benefit of the riot victims and one of such policies provided for allotment of alternative accommodation to the riot victims. It is further stated in the counter affidavit that in terms of the said policy, the eligibility for allotment of alternative accommodation was determined by the concerned SDM and after determination of the eligibility, an eligibility-cum-offer letter in favour of such eligible person, is issued by the SDM to the Delhi Urban Shelter Improvement Board and on the basis of such eligibility-cum-offer letter, the allotment used to be made previously by the Slum & JJ Department erstwhile Municipal Corporation of Delhi which has since been succeeded by the said Board. It is also stated in the counter affidavit that role of the Board starts only after issuance of eligibility-cum-offer letter by the concerned SDM and in the absence of such letter, the Board does not come into picture. The Board in its counter affidavit has also referred to the letters dated 19.9.2011

and 26.12.2011, but has claimed that there was no response from the concerned SDM to the aforesaid letters.

5. It would thus be seen from the facts stated hereinabove that there is a Scheme for allotment of alternative flats to the victims of 1984 riots. This is also an admitted position that Delhi Urban Shelter Improvement Board, which has succeeded the Slum & JJ Department of MCD is now entrusted with the responsibility of making such allotment. This is not the case of the Board that there is no policy for allotment of alternative flats to the victims of 1984 riots or that the responsibility for such allotment has been entrusted to some other agency. The plea taken by the Board is that the eligibility for such allotment is to be determined by the concerned SDM and thereafter the matter is to be processed by the Board.

6. The learned counsel appearing for the Government of NCT of Delhi states that as far as Government of NCT of Delhi is concerned, they have already stated in the counter affidavit filed in the earlier writ petition that the petitioner is a victim of 1984 riots and that is why it was paid initial compensation as well as the enhanced compensation. The eligibility of the petitioner for allotment of alternative flat, therefore, stands admitted by the Govt. of NCT of Delhi. In view of the aforesaid stand taken by the Government of NCT of Delhi, it is no more open to the Board to pass the buck to the said government.

7. The writ petition is, therefore, disposed of with direction to the respondent no.2 – Delhi Urban Shelter Improvement Board to process the case of the petitioner for allotment of alternative flat, as per the applicable policy, on the basis that the petitioner is a victim of 1984 riots, who was paid compensation by the Government. An appropriate decision, in this regard, as per the policy of allotment of alternative flat to the victims of 1984 riots, shall be taken by the Delhi Urban Shelter Improvement Board within eight (8)

weeks from today and be conveyed to the petitioner within one week thereafter.

There shall be no orders as to costs.

DECEMBER 03, 2013/*rd*

V.K. JAIN, J.