

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

Pronounced on: 17th December, 2013

+ **W.P.(C) 8017/2012**

NANAK CHAND Petitioner

Through: Mr. R.K.Saini, Adv. with
Ms. Seema Salwan, Adv.

versus

DDA Respondent

Through: Mr. Arun Birbal, Adv.

CORAM:

HON'BLE MR. JUSTICE G.P. MITTAL

J U D G M E N T

G.P. MITTAL, J.

1. By virtue of this writ petition under Article 226 of the Constitution of India, the Petitioner seeks allotment of a similar MIG Flat as Flat No.188, (FF), Pocket-B, Sector 13, Dwarka allotted to him was cancelled without any just and reasonable ground.
2. At the time of hearing of the writ petition, Mr. R.K.Saini, learned counsel for the Petitioner conceded that if the Petitioner is found to be entitled to a similar flat now, he (the Petitioner) has no objection in accepting the allotment at current cost.
3. The Petitioner got himself registered for allotment of an MIG flat under the Ambedkar Awas Yojna. He was allotted the Registration No.6362. At the time of registration, he gave his current address and permanent address in the application form as under:-

“(a) Current Address: C/o Shri Jai Prakash, House No.3985, Roshan Ara Road, Delhi-110007

(b) Permanent Address: Nanak Chand, Sr. P.A. Ministry of External Affairs, New Delhi-110011 (being his occupational/office address)”

4. In the year 2001, the Petitioner was allotted a Govt. accommodation, that is, B-16, Pandara Road, New Delhi. By a letter dated 04.10.2001, he made a request to the DDA for incorporating his changed address in the record of the DDA. By a letter dated 22.10.2001, the DDA asked him to submit an attested copy of the ration card or election card so that his address could be changed in the office record. The said documents were not submitted by the Petitioner as he did not possess the same. Since the Petitioner was working as an Under Secretary in the Ministry of External Affairs, he was posted at Panama at that time. On his return in September, 2005, the Petitioner again intimated his new address to the DDA, that is, B-1/167, Kendriya Vihar, Sector 56, Gurgaon for further correspondence. The Petitioner retired from the govt. service on attaining the age of superannuation in November, 2008 and thereafter made a representation to the Joint Director (Housing) dated 28.04.2009 pointing out the above facts and circumstances and stating that he had not received any intimation about the allotment of a flat to him. By a letter dated 28.08.2009, his request for allotment for flat was turned down without any reason and without even informing him that he had already been allotted a flat bearing No.188, (FF), Pocket-B, Sector 13, Dwarka on his turn in draw of lots held on 22.12.2002. The Petitioner then again made a representation dated 22.12.2009 (Annexure P-5). Since he heard nothing from the DDA, he filed an application under the Right to Information Act, 2005 (RTI Act) on 24.06.2011 seeking information as to why he was being denied allotment of the flat under the scheme. On failure to receive a satisfactory reply, the Petitioner preferred an appeal to the Appellate

Authority on 07.09.2011 (Annexure P-6). The Appeal was disposed of by a letter dated 21.09.2011, which is extracted hereunder:-

“PIO/Dy. Dir. (MIG)-H is directed to furnish the information to the appellant if the same is readily available in their record and in case it is not available appellant may be asked to inspect the concerned documents which are available in the department. The appellant may note down the relevant details and in case the copies of the documents can be supplied as per the provisions of the RTI Act-2005, the same may be given to the appellant.”

5. Thus, the DDA failed to take any remedial action in the matter and provide him with demanded documents. The Petitioner, therefore made a representation dated 12.09.2012 (Annexure P-8) to the Vice Chairman of the DDA but yet, as usual he did not receive any response.
6. The Petitioner claims that in the first week of December, 2012, the Petitioner came across a public notice (Annexure P-9) issued by the DDA regarding completion of allotment of different categories of flats stating that no allotment is pending with the DDA and the scheme has already been closed. The Petitioner therefore, attended the public hearing in the office of the DDA on 13.12.2012 and thereby came to know about the allotment of Flat No.188 (FF), Pocket-B, Sector 13, Dwarka, New Delhi to him in the year 2001 and that the Demand-cum-Allotment letter (DAL) of the same had been returned back undelivered and that the allotment of the flat made to him had been cancelled on account of non payment of the cost of the flat within the stipulated period. The Petitioner, therefore, has approached this Court by way of the instant petition.
7. In the counter affidavit filed by the DDA, it is stated that a DAL with block dates 26/31.12.2011 was sent to the Petitioner at his

correspondence/postal address as mentioned in the application form, that is, House No.3985, Roshan Ara Road, Delhi-110007 with advice to deposit the demanded amount as per the schedule given in the letter. Since the Petitioner failed to deposit the amount as required, the allotment automatically stood cancelled. It is stated that the DDA had also published a press notice in leading newspapers on 17.10.2012 as also on the website wherein all the successful allottees of the various draws who had not received their respective DALs were requested to collect the same from the office of Deputy Director within 15 days.

8. In the counter affidavit, the DDA has also taken up the plea that although the Petitioner had given his office address as Nanak Chand, Sr. P.A. Ministry of External Affairs, New Delhi-110011 but as per the income certificate submitted at the time of registration of the flat, he was working in Embassy of India at Kathmandu. The DDA has further taken up the plea that there is no policy to send DALs at all the addresses of the Petitioner.
9. It is not in dispute that at the time of registration for allotment of the flat, the Petitioner had given two addresses and the permanent address was Nanak Chand, Sr. P.A. Ministry of External Affairs, New Delhi-110011. Admittedly, the allotment letter was not sent to the Petitioner at this address. Rather, the DDA has taken up the plea that although the occupational/office address was mentioned as Ministry of External Affairs, yet the allotment letter could not have been issued to him at this address as at the time of registration of the flat, the Petitioner was posted at Kathmandu, as per the income certificate. It is obvious that since the Petitioner was employed in the Ministry of External Affairs, his posting

would have changed from one place to another and thus, the Petitioner had not mentioned his permanent address as the Embassy of India, Kathmandu, Nepal, rather, he has mentioned the address as Nanak Chand, Sr. P.A. Ministry of External Affairs, New Delhi-110011. The Petitioner rightly hoped that if any communication is sent to him at this address, the same will reach him irrespective of the place of his posting. Moreover, it is not in dispute that the Petitioner wrote a letter dated 04.10.2001 to record the change in his current address from House No.3985, Roshan Ara Road, Delhi-110007 to B-16, Pandara Road, New Delhi. In fact, the DDA by a letter dated 22.10.2001 had asked him to submit the attested copy of the ration card and election card so that his address could be changed in the office. It is true that there was slackness on the part of the Petitioner in as much as he did not provide any ration card/election card as demanded. The Petitioner says that he was not in possession of the same. Even if it was so, the Petitioner was expected to inform the DDA about the same. The fact, however, remains that the DDA was very much aware that by a letter dated 04.10.2001, the Petitioner had informed about the change of his address.

10. Therefore, the question for consideration is even if the registrant under any scheme fails to supply copy of the ration card/election card to change his address, is the DDA justified in sending the allotment letter at the old address? Even if the DAL was initially sent at the old address and received back with the report of '*left*', the DDA was under an obligation to send the same at the current address of the Petitioner which was duly provided in the year 2001. Not only this, admittedly, the information about the allotment of the flat was also not sent at Petitioner's occupational/office address. The learned counsel for the DDA relies on a

judgment of this Court in *Dev Raj v. DDA, W.P.(C) No.7842/2012*, decided on 11.07.2013 to contend that the DDA was not under an obligation to send the communication at all the addresses. However, the contention raised on behalf of the DDA is misconceived.

11. In *Dev Raj*, the intimation was sent at the given address which was returned with the report of 'left' and the permanent address provided was incomplete and vague. It was in these circumstances that it was held that the DDA had performed its obligation of sending the information at the available address.
12. The instant case, on the other hand, is covered by the judgments of this Court in *Ravi Dass v. DDA, W.P.(C) No.5554/2011*, decided on 16.02.2012, *Sushil Kumar Jain v. DDA, W.P.(C) No.7433/2012*, decided on 12.11.2013, *DDA v. Mohinder Singh, LPA No.1067/2011*, decided on 14.02.2012, and *DDA v. Ms. Prem Bhatnagar, LPA No.1098/2011*, decided on 14.02.2012.
13. The DDA was very much in knowledge of the current address, that is, B-16, Pandara Road, New Delhi, which was the residential address of the Petitioner of the Govt. flat allotted to him. It is very unfortunate that in spite of the address being available, in respect of the govt. employees also, the DDA now wants to take a plea that it was not under an obligation to send the allotment letter at the current residential address which was duly informed.
14. The writ petition therefore, has to succeed.
15. The learned counsel for the Petitioner urges that although the Petitioner is not to be blamed for delay in the allotment of the flat to him, yet the

Petitioner will be satisfied if the flat is allotted to him at the cost prevalent on the date of filing the writ petition, that is, 20.12.2012. The learned counsel for the Petitioner also relies on the judgments of this Court in *DDA v. Mohinder Singh, LPA No.1067/2011* decided on 14.02.2012 and *Ms. Prem Bhatnagar v. DDA, LPA No.1098/2011* dated 14.02.2012.

16. I have perused the judgments in *Mohinder Singh* and *Prem Bhatnagar*. In both these cases, the allotment of the flat was ordered to be made by the learned Single Judge at the cost prevalent at the time of issuance of the allotment letter together with simple interest @ 12% per annum. The LPAs filed by the DDA were allowed and the orders passed by the learned Single Judge were modified to the extent that the Appellants were held to be entitled to the allotment of the flat at the cost as on 19.05.2011, that is, the date of the judgments.
17. In view of this, I hereby issue a writ of *mandamus*, directing the DDA to allot a flat of equivalent size preferably in the same area, that is, Dwarka, New Delhi at the price prevalent on the date of this order, within a period of 12 weeks.
18. On issuance of DAL and on deposit of the allotment money, the possession of the flat shall be delivered to the Petitioner within a period of one month from the date of making the payment, as demanded by the DDA.
19. The writ petition is allowed in above terms with costs quantified at ₹15,000/-.
20. Pending applications also stand disposed of.

(G.P. MITTAL)
JUDGE

DECEMBER 17, 2013

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