

Court No. - 46

Case :- WRIT - C No. - 40779 of 2023

Petitioner :- Santosh Kumar Gupta

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Praveen Kumar, Onkar Nath
Vishwakarma, Satish Tripathi

Counsel for Respondent :- CSC, Sant Ram Sharma

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

Petitioner's plot is proposed to be cancelled vide order impugned dated 26.10.2023 primarily on the ground that though land was allotted in 1989, but no constructions have been raised till date. Certain charges were also demanded from the petitioner on account of non-construction of house.

The petitioner previously approached this Court by filing writ petition no. 27088 of 2022, which came to be disposed of vide following order passed on 13.10.2022:-

"The petitioner is aggrieved by a communication dated 29.6.2021 by which he was informed of the amount that is required to be paid by him for obtaining freehold deed. One of the component of the demand notice is non-construction fee/charge, which the petitioner is disputing on the ground that the same is not leviable on a government employee in view of government order dated 30.9.2014 (Annexure-8). The petitioner is a retired government servant. He has represented in this behalf on 20.8.2022 and prays that the same be directed to be decided.

Learned counsel appearing on behalf of respondents 2 and 3, Sri Sant Ram Sharma, does not oppose the prayer.

Accordingly, without expressing any opinion on merit, the writ petition is disposed of with direction to respondent No.3 to examine the issue and take appropriate decision in accordance with law within a period of eight weeks from the date of communication of the instant order along with photocopy of the representation."

Consequential order has now been passed rejecting petitioner's representation and a proposal is made to cancel the allotment. The order of development authority is assailed on the ground that the government orders, referred to in petitioner's representation including government order dated 30th September, 2014, which exempts a government employee from depositing non-construction charges, has neither been dealt with, nor has even been adverted to. It is, therefore, submitted that the order impugned suffers from

complete non application of mind.

Faced with the above argument, learned counsel representing the development authority states that the Vice Chairman shall consider petitioner's representation afresh, and the government orders relied upon by the petitioner shall be specifically referred to.

In view of the fair stand taken by counsel for the development authority, we dispose of this petition with a direction upon the Vice Chairman to take a fresh decision in light of above, within a period of two months from the date of presentation of a certified copy of this order. In order to facilitate such fresh consideration of cause, the order impugned dated 26th October, 2023, stands quashed.

Order Date :- 28.11.2023

Ranjeet Sahu