



2026:AHC:32668-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 31335 of 2017

Anil Kumar Bansal

.....Petitioner(s)

Versus

State Of U.P. Thru Secy. U.P. Awas And Vikas
Parishad And Anr.

.....Respondent(s)

Counsel for Petitioner(s) : Anoop Kumar Srivastava, Mahender,
Mohan Srivastava

Counsel for Respondent(s) : Ajit Singh, Nipun Singh, S.C., Sunil
Kumar Misra

Court No. - 21

HON'BLE MAHESH CHANDRA TRIPATHI, J.

HON'BLE KUNAL RAVI SINGH, J.

1. Heard Sri Anoop Kumar Srivastava, learned Senior Counsel assisted by Sri Mahendra Yadav, learned counsel for the petitioner, Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State respondents and Sri Pradeep Kumar Srivastava, holding brief of Sri Ajit Singh Rana, learned counsel representing U.P. Awas Evam Vikas Parishad.

2. The instant writ petition has been preferred praying *inter alia* for following relief :-

"i. Issue a writ, order or direction in the nature of certiorari quashing the order dated 10.02.2017 passed by the Housing Commissioner/respondent no.2, rejecting the application/representation of the petitioner;

ii. Issue a writ, order or direction in the nature of mandamus commanding the respondent no.2 to re-consider the case of the petitioner on its own merit, giving due consideration to the provisions of Regulation 33(9) of U.P. Awas Evam Vikas Parishad Regulations ;

iii. Issue a writ, order or direction in the nature of mandamus commanding the respondent to consider the allotment of plot

no.493/6, situated as Sector 6 of Shastri Nagar Yojana, Meerut and to hand over the possession to the petitioner;

iv. Issue a writ, order or direction in the nature of mandamus commanding the respondents to apply the rates of plot no.493/6, which was applicable on the date of allotment i.e. 03.12.1999, in view of the provisions given in the clause 8.9 given in Mulyankan Nirdeshika (costing directives) of the petitioner and also in view of the office order dated 04.09.1986 as also because the adjacent plot no.49/6, allotted to other person by the respondent parishad in the year 2004, at the rate applicable on the date of allotment i.e. 03.12.1999."

3. The brief matrix of the case is that in the district Meerut, certain plots were advertised by the U.P. Awas Evam Vikas Parishad (hereinafter referred to as 'Parishad') under the Tatkal Scheme. The petitioner along with some other applicants had applied for allotment of a plot and they made an application in the year 1999. Under Regulation 16(2) of the Regulation framed by the Parishad, the plots were to be allotted on first come first serve basis and under the said Regulation, preference could be provided to the displaced persons, government employees, employees of the Parishad and other specified categories while making allotment under the Tatkal Scheme. Once the Parishad had not settled the allotted plot in favour of the petitioner, few applicants had approached to this Court by preferring Writ C No.52450 of 1999, '*Sunil Kumar and others Vs. Awas Ayukt Evam Sachiv, U.P Awas Evam Vikas Parishad, Lucknow and others*', and the Division Bench of this Court vide judgment and order dated 18.10.2005 had allowed the writ petition and had directed the Housing Commissioner to consider all the applications made under the Tatkal Scheme of the Parishad afresh and pass a fresh order of allotment within a month. The judgment and order passed by the Division Bench dated 18.10.2005 was subjected to challenge before the Apex Court in Civil Appeal No.7488 of 2011 arising out of SLP (C) No.7477 of 2006, '*Awas Ayukt Evam Sachiv and others Vs. Sunil Kumar and others*'. Various other civil appeals were also tagged with the leading one and vide judgment and order dated 24.08.2011, the Apex Court had not approved the Tatkal Scheme initiated by the Awas Evam Vikas Parishad and

proceeded to observe, which are quoted hereinbelow :-

"Leave granted.

Heard Counsel for the Parties.

allotment (applicant in Civil Appeal Nos. 7489, 7490, 7491 and 7492 of 2011 arising out of SLP(C) No. 7477, 7479, 7480, 10560 and 11143 of 2006 (respondents before the High Court) Under the Tatkal Scheme was bad and illegal cannot be faulted. But the High Court was clearly in error in asking the appellants, U.P. Avas Evam Vikas Parishad and its officials to reconsider all the applications for allotment of plots in the Jagriti Vihar Yojna No. 6, Meerut Under the Tatkal Scheme. This is for the simple reason that the Tatkal Scheme adopted by the Parishad was inherently bad and illegal since it gave unfettered and arbitrary powers to the authority to make allotment of plots on subjective considerations.

We are further informed that after the order of the High Court, the Tatkal Scheme has been abolished by the parishad.,

For the aforesaid reasons, the direction of the High Court to the parishad and its Officials to reconsider all the applications made under the Tatkal Scheme for allotment of plots in the Jagriti Vihar Yojna No. 6, Meerut, cannot be given effect to and the impugned direction of the High Court is, accordingly, set aside.

Coming now to the allotments already made in favour of the four appellants in the aforementioned four Civil Appeals, it is true that the allotments were not proper and valid, but the fact cannot be overlooked that the allotments were made in the year 1999 and possession of the respective plots were also given to the allottees. Houses have since been constructed on the allotted plots, which are fully occupied.

In those circumstances, it would not be proper and just to have the appellants evicted from the land and get the houses demolished. for the reasons as stated above, the order of the High Court has to be set aside. ordered accordingly.

The Civil appeals are allowed in the aforesaid terms.

SLP (C) Nos. 22172 and 14473 of 2009

In this case, though allotments were made under the Tatkal Scheme in favour of the petitioners, possession of the allotted plots was not handed over to them. It is noted in the connected appeals that the Tatkal Scheme adopted by the Parishad was inherently bad and illegal as it gave unfettered and arbitrary powers to the concerned authority to make allotment of plots on a subjective basis. It is further to be noted that after the order of the High Court, the Tatkal Scheme has been abolished by the parishad.

In those facts, we are not inclined to the interfere in favour of the petitioners to whom plots were allotted under the Scheme but possession of those plots was not given to them by virtue of the stay orders passed by the High Court.

The Only Course, thus, left open for the parishad is to dispose of the remaining plots under the erstwhile Tatkal Scheme by public auction, in accordance with the Rules of the parishad. If the petitioners or any other applicant in the Tatkal Scheme had made any deposits, they would be entitled to its refund with simple interest @ 9% per annum. In case application for refund are made, the refund should be made without any undue delay.

The Special leave petitions are dismissed. As consequence, the writ petition (C.M.W.P. No. 54908/1999 and C.M.W.P. No. 53061/1999 and dismissed.

C.M.W.P. No. 53061/1999 filed by the petitioners in the High Court also stand dismissed."

4. Sri Anoop Kumar Srivastava, learned Senior Counsel, in this backdrop, submits that the petitioner, who was an ex-employee had initially applied for plot and later on, Civil Appeal Nos. 22172 and 14473 of 2009 was allowed and further the Apex Court had directed the Parishad to return the deposited amount with a simple interest at 9% per annum to the applicants in whose favour the plots were allotted. He next submits that later on, the petitioner/applicant had moved a modification application of a judgment

and order dated 24.08.2011 in SLP(C) No.14473 of 2009 wherein the applicant/petitioner had relied upon the Regulation 33 of the U.P. Awas Evam Vikas Parishad Regulations which provides for maintaining a seniority list for allotment of plots with the provision that no khata holders (land holders) shall be allotted the land more than 25% of area of his acquired land further in case, the percentage of such displaced person as per income limit comes to less than one unit in the category of the property, even then one unit shall be mentioned qua the same. For ready reference, Regulation 33 is quoted hereinbelow :-

"33. Seniority List - Seniority List of reserved categories shall be as follows:

(1) Displaced

(a) In substitution top most priority shall be given to the displaced persons under the scheme provided that before the last date of making application for substitution they have deposited the prescribed advance amount in the Account of the Board. Provided also that names of the displaced person, his wife/husband, minor children should not find mentioned of the plot/flat in the said city and should not own more than one plot/flat in other cities of the State and before or subsequent to the making of application should not possess property beyond the prescribed limit under any law in force. Provided also that no Khata holder (Landholder) shall be allotted land more than 25% of area of his acquired land. In case percentage of the said displaced person as per the income limit comes to less than one Unit in the category of the property even then one Unit shall be mentioned shown.

(2) Cooperative Housing Societies

(3) Scheduled Caste

(4) Scheduled Tribes

(5) Backward caste

(6) Freedom Fighters and MLAs/MPs

(7) Security personnel

(8) Employees of Government of Uttar Pradesh and Blind & Physically handicapped

(9) Members and employees of the Parishad"

5. Learned Senior Counsel appearing for the petitioner has placed reliance on the modification application dated 27.09.2011 which is also appended as Annexure-5 wherein the petitioner/applicant had taken categorical stand and shelter of a provision of Regulation No. 33 of the Regulations framed by the Parishad and consequently, the Apex Court passed an order on 13.07.2011 wherein the interim application was permitted to be dismissed as withdrawn and liberty was accorded to the petitioner/applicant to make a representation before the U.P. Awas Evam Vikas Parishad, the same was directed to be considered on its own merits.

6. He next submits that in spite of the categorical direction issued by the Apex Court, instead of deciding the same on merit, considering the Regulation 33, the respondent Authority, in an arbitrary manner, had non-suited the claim of the petitioner on the basis of judgment and order dated 24.08.2011 passed by the Apex Court in Civil Appeal No.14473 of 2009. He further apprised to the Court that till date, the Authority has not settled the plots on the spot and the same is still vacant. He further submits that at this stage, definitely, once the Apex Court has rejected the Tatkal Scheme but leave was given to the petitioner to press the reliefs in pursuance of Regulation No. 33 before the Authority who had dismissed the case in an arbitrary manner, such situation impelled the petitioner to invoke the writ jurisdiction.

7. Per contra, learned counsel appearing for U.P. Awas Evam Vikas Parishad has resisted the relief and submits that the Tatkal Scheme was subjected to challenge before the Apex Court wherein, the Court has categorically observed that the same was bad and illegal but to balance the equity with regard to certain allottees who already had constructions on the spot, no eviction order was passed but for rest of the allottees, the Authority was directed to refund the amount with interest. Learned

counsel next submits that since the Apex Court had disapproved the Scheme and only a direction to return the deposited amount along with interest was passed, the Scheme itself was faulted. Later on, the Parishad had also cancelled the Scheme, therefore, no other relief can be extended at this stage under the said Scheme to the petitioner (applicant). The decision is sustainable in the eyes of law as the same is in consonance with the judgment and order passed by the Apex Court dated 24.08.2011. He further submits that no such relief can be accorded to the petitioner at this stage in the light of the judgment passed by the Apex Court, however, it is always open to the parties to press the relief for return of the amount as per mandate of the Apex Court.

8. We have heard the rival submissions of the parties and perused the material available on record.

9. So far as factual and legal aspects are concerned, the same are not disputed. The Apex Court had deprecated the Tatkal Scheme in its judgment passed in Civil Appeal No.14473 of 2009. Later on, the petitioner had moved an application for modifying the judgment and order dated 24.08.2011 in the light of Regulation 33 which provided for maintaining a seniority list for allotment of plots. Now, at this stage, the claim has been set up on the basis of the relief given against the modification application which was pressed before the Apex Court. We find that the Apex Court while considering the modification application had given a leverage to the petitioner to make a representation before the U.P. Awas Evam Vikas Parishad which would be considered on its own merit, however we find that instead of considering the claim of the petitioner in the light of modification application and the relevant regulation which was pressed before the Apex Court, the respondent authority has erred by relying upon the earlier judgment passed by the Apex Court dated 24.08.2011. The Apex Court had entertained the modification application and had given a leverage to the petitioner to make a representation before Awas Vikas Parishad wherein the petitioner had claimed that in the modification application, he had set up the case under the Regulation 33 of the Regulation which provides that the seniority list has to be prepared by the Authority. Regulation 34 provides procedure for an auction and Regulation 33 deals with maintenance of

reserved category list. No doubt, the petitioner being an ex-employee, finds place at the bottom of the said category but anyhow, the said aspect has not been considered by the Authority while passing the order impugned. As such, we find that the order impugned is *per se* unsustainable and is, accordingly, set-aside.

10. With the aforesaid observations, the instant writ petition stands **partly allowed**. A direction is issued to the respondent to consider the claim of the petitioner in the light of Regulation 33 of the Parishad in accordance with law. We expect that the Authority may proceed in accordance with law but certainly after taking into account Regulations 33 and 34 of the Regulation framed by the Parishad.

(Kunal Ravi Singh,J.) (Mahesh Chandra Tripathi,J.)

February 13, 2026

Sumit S