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

+ **W.P.(C) 1642/2015**

SURESH KUMAR

..... Petitioner

Through: Mr. Shalabh Gupta, Advocate

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Biraja Mahapatra and Mr.

Chaitanya, Advocates for R-1 & 3

Mr. Arjun Pant, Advocate for R-2 & 4

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **12.08.2015**

1. This is a writ petition directed against the communication dated 15.07.2014, issued by respondent no.3 herein.

1.1 By virtue of the impugned communication, the petitioner's application dated 12.10.1999 for allotment of an alternate plot in lieu of the acquired land, was rejected.

1.2 In the impugned communication, the only reason given by respondent no.3, is that, the petitioner, concealed the fact that he had purchased the acquired land.

2. Being aggrieved, the petitioner filed the instant petition under Articles 226 and 227 of the Constitution.

3. Notice in the writ petition was issued on 23.02.2015. On that very date, respondent no.1 to 3 were granted four weeks to file a counter affidavit in the matter. To date, no counter affidavit has been filed.

4. In order to adjudicate upon the writ petition, the following brief facts are required to be noticed:-

4.1 It is the case of the petitioner that he purchased half share of the agricultural land, admeasuring 4 bighas and 9 biswas, located in Khasra No.409/2, situate in Village Ali, Tehsil Mehrauli, New Delhi, vide a registered sale deed dated 16.04.1986.

4.2 The petitioner avers that the land stood mutated in his name on 28.05.1986.

4.3 It is also the case of the petitioner that the said land was acquired by the respondents in respect of which an award was announced, bearing no.4/98/99 on 23.02.1999.

4.4 Consequent thereto, compensation was also awarded to the petitioner and certificate in that behalf was issued on 23.09.1999. The petitioner thereafter filed an application, on 12.10.1999, for allotment of an alternate plot.

4.5 Post the institution of the application for allotment of an alternate plot, there was exchange of correspondence between the petitioner on one side and respondents (in particular, respondent no.1), on other side. As a matter of fact, as recent as on 12.02.2014, a communication was addressed by respondent no.1 to the petitioner requiring him to file an affidavit, in the prescribed format, setting out therein, a declaration that he did not own any immovable property in the urban area of Delhi or that he did not have membership of any Group Housing Society.

4.6 The petitioner, in response to the said communication filed an affidavit under a cover of the letter dated 24.02.2014. It appears that the application of the petitioner was processed by the Recommendation

Committee constituted by respondent no.1 which, ultimately, resulted in the impugned communication.

4.7 Admittedly, the petitioner did file an application in the given format, in which, the petitioner appears to have indicated that information sought as against query no.7 was not applicable in his case.

4.8 To be noted, query no.7 required the petitioner to disclose as to whether the acquired land was an ancestral property or, had been purchased, and if so, the date of purchase, and the date of mutation and the order passed in that behalf.

4.9 This information, as indicated above, was thus, in effect, not supplied by the petitioner.

5. The counsel for the petitioner has submitted before me that since, the petitioner, was an illiterate person, he had sought help of his neighbour to fill up the application form. Consequently, the counsel submitted that somehow correct information did not get captured against query no.7.

5.1 It is, however, the assertion of the counsel that the fact that the petitioner had purchased the land and had obtained a mutation in his favour is demonstrable from the documents filed with the Recommendation Committee.

5.2 It is also the contention of the learned counsel that the petitioner pursuant to the award, has received compensation for the land acquired and is, therefore, eligible for allotment of an alternate land.

5.3 In sum, the contention is, that the, application for allotment of an alternate plot was rejected on a technicality without regard to the underlying documents submitted by the petitioner.

6. Mr. Mahapatra, who appears for respondent no.1 and 3 cannot but

contend that the underlying documents do demonstrate that the petitioner is eligible for consideration for allotment of an alternate plot dehors the response set out against query no.7, in the application form.

7. I have heard the learned counsel for the parties and perused the record.

8. As indicated above, the only ground on which the application was rejected, was that, the petitioner had concealed information against query no. 7. Quite clearly, the petitioner had supplied the necessary documents which seemingly establish the fact that he had purchased the land and had obtained mutation in his favour. If the petitioner was so inclined, as to conceal the information, these documents would not have been filed with the Recommendation Committee.

8.1 That being said, if the documents as filed by the petitioner are in order then surely, the petitioner is eligible, notwithstanding the response that was given to query no.7 in the application form.

9. Having regard to the above, I am inclined to set aside the impugned communication. It is ordered accordingly. In these circumstances, the Recommendation Committee will issue a notice to the petitioner indicating therein, the date, time and the venue, as to when, he is required to present himself before it. The Recommendation Committee will accord a personal hearing to the petitioner. Thereafter, the Recommendation Committee will pass a speaking order; a copy of which, will be furnished to the petitioner within two (2) weeks of the order being passed.

9.1 Needless to say, the entire exercise will be completed with due expedition, though not later than two months from today. In case the Recommendation Committee finds that the petitioner is otherwise eligible, it

can also straightaway render its recommendation in favour of the petitioner. This is an aspect which I leave to the good wisdom of the Recommendation Committee.

10. It is, however, made clear that if, the petitioner were to succeed before the Recommendation Committee, his original seniority will be retained by the Recommendation Committee.

11. With the aforesaid observations in place, the captioned petition is disposed of.

RAJIV SHAKDHER, J

AUGUST 12, 2015

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