

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

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Date of decision: 3rd July, 2015

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W.P.(C) No.7914/2012

DELHI GRAM VIKAS PANCHAYAT

..... Petitioner

Through: Mr. N.S. Dalal, Adv.

Versus

GOVT. OF NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Mr. Sunil Kumar Jha and Mr. Kushal Raj, Advs. for R-1/GNCTD.

Mr. Arun Birbal and Mr. Sanjay Singh, Advs. for R-2/DDA.

Mr. Umesh Sharma, Adv. for R-3/UOI.

CORAM:-

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J

1. This petition under Article 226 of the Constitution of India, filed as a Public Interest Litigation (PIL), flags the issue of delays on the part of the respondent no.1, Government of National Capital Territory of Delhi (GNCTD), in processing the applications (of those whose land was acquired under the Land Acquisition Act, 1894) under the Scheme framed by the Govt. of NCT of Delhi of providing alternative land as well as the delays on the part of the respondent no.2 Delhi Development Authority (DDA) in, even after recommendation for allotment of alternative land had been made,

allotting such land and seeks a direction to the respondent no.1 GNCTD to process the applications within a time bound period of three to four months and a direction to the respondent no.2 DDA to allot the alternative land within a time bound period of three to four months upon recommendation therefor being made by the GNCTD. It is *inter alia* the case of the petitioner that the delays also result in such allottees of alternate land being asked to pay the cost of alternative land as on the date of allotment. The petition also seeks a direction that the allottees be charged the cost of alternative land as prevalent on the date of making the application for alternative land and not of the date of allotment.

2. The petition was entertained and notice thereof issued.

3. The respondent no.2 DDA has filed an affidavit pleading, (i) that it makes allotment of alternative plots of appropriate sizes, on receipt of recommendation from the GNCTD; (ii) in accordance with the policy, seniority list based on the date of taking over of possession of the acquired land is maintained; (iii) after receipt of recommendation, sufficient number of approved sizes for allotment are carved out and draw of lots is held from the seniority list to the extent of number of plots available; (iv) no seniority list can be prepared in advance as recommendation letters from GNCTD

having different dates of taking possession of land keep coming to DDA; (v) as per the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981, the premium charged for the said plot has to be of the date of allotment; (vi) as per the dicta of Full Bench of this Court in ***Ramanand Vs. Union of India*** AIR 1994 Delhi 29, a person whose land is acquired does not have an absolute right for allotment of alternative plot of land for residential purpose and such person is only eligible to be considered for allotment subject to certain conditions; (vii) developed plots are also required for disposal to general public by way of public auction and to other categories of persons for various purposes who also may be waiting for a long time; and, (viii) recommendation of alternative plots are only one of the categories of persons who are allotted plots.

4. The respondent no.1 GNCTD in its counter affidavit has pleaded, (i) that a Single Judge of this Court in W.P.(C) No.5944/2010 titled ***Rambir Singh Vs. Government of NCT of Delhi*** and in W.P.(C) No.6074/2011 titled ***Ishwar Singh Vs. Govt. of NCT of Delhi*** is also seized of the issues identical/similar to the issues sought to be raised in the present petition including expeditious consideration of applications for allotment of alternative plots; (ii) in fact, the learned Single Judge is also monitoring the

process of consideration of applications by the Land and Building Department of the respondent no.1 GNCTD; (iii) that the respondent no.1 GNCTD had been complying with the orders passed by the learned Single Judge in the said matters from time to time; (iv) that all details relating to consideration of applications for allotment of alternative plots in lieu of acquired land are being made available by the GNCTD on its official website, in compliance of the order of the learned Single Judge; (v) that in accordance with the directions of the learned Single Judge, a task force in this regard had been constituted and the Committee which considers the applications for alternative land is meeting on every alternative working day; (vi) that after the recommendations by the GNCTD, the allotment of alternative land is made by the DDA subject to availability; (vii) that the delays in consideration of applications for alternative land are attributable also to the applicants delay in removing the deficiencies therein and in furnishing the requisite particulars; (viii) that the scheme for allotment of alternative plot under the Large Scale Acquisition, Development and Disposal of land in Delhi announced by the Government of India, Ministry of Home Affairs formulated/circulated vide letter dated 2nd May, 1961 is purely a welfare scheme; the same does not confer any vested right for

allotment of alternative plot; (ix) that prior to February, 2008 the principle of 'first come first serve' was not being maintained/followed as per the date of receipt of the applications in the department and the consideration of the applications for allotment of alternative plot was solely dependent upon completion of documentary requirements; (x) however the Central Vigilance Commission vide Circular dated 22nd November, 2006 has issued guidelines and reiterated for adherence to the principle of 'first come first serve'; since then the records have been streamlined and now the applications are being processed as per the date of receipt thereof in the department; (xi) a standard operating procedure is in place for processing the applications; and, (xii) that the pending cases are being disposed of expeditiously and measures in this regard are underway.

5. The petitioner has also impleaded Union of India, Ministry of Urban Development as respondent no.3 but without disclosing its role and the Under Secretary, Delhi Division, Ministry of Urban Development in its counter affidavit filed, has reiterated so.

6. We heard the counsels on 6th May, 2015 and reserved judgment.

7. During the hearing the counsel for the petitioner contended that though it has been held by the Full Bench of this Court in *Ramanand*

(supra) that a person whose land is acquired has no vested right to allotment of alternative plot of land in as much as the same is over and above the compensation which only is his entitlement, but the said policy/scheme is in accordance with Rule 6 of the DDA Rules supra and is thus statutorily recognized. It was further argued that the scheme/policy has the beneficial purpose of rehabilitation and which purpose is totally lost by keeping the applications pending for decades.

8. We have considered the matter.

9. The counsel for public interest writ petitioner could not controvert that at the time of filing of this petition, the learned Single Judge also was seized of the same issue as raised by way of this PIL. The purpose of a PIL is *inter alia* to provide access to justice to those who are unable to themselves approach the Courts. Once it is found that the persons for whose benefit a PIL is filed or some of them have already approached the Court and the Court is seized of the issue as sought to be canvassed in general, ordinarily a PIL would not be entertained. We do not find any reason in the present matter to not follow the same view. The Supreme Court, in ***State of Madhya Pradesh Vs. Bheru Singh*** (2012) 3 SCC 287 held the High Court to be not justified in entertaining a writ petition by way of a public interest

litigation when the same High Court had already dealt with the same question and that a public interest litigation cannot be pressed into service where matters have already been completely and effectively adjudicated upon not only in individual petitions but even in writ petitions raising the larger question as was raised in earlier petition. Reliance in this regard was also placed on ***Joydeep Mukherjee Vs. State of West Bengal*** (2011) 2 SCC 706.

10. Neither counsel could however tell the present status of ***Rambir Singh*** and ***Ishwar Singh*** supra. However from the website of this Court, we find that both the said petitions, along with a list of other petitions, were disposed of by the learned Single Judge vide common order dated 31st July, 2013 as under:

“The petitioners in these writ petitions are aggrieved from the abnormal delay in consideration of their applications for allotment of alternative plots under the scheme framed by the Government of India vide its letter dated 2nd May, 1961 for allotment of alternative plots to those whose agricultural land was acquired for planned development of Delhi.

Vide order dated 19th December, 2011 passed in W.P.(C) No. 6074/2011 and connected matters, this Court directed the respondents to expedite the whole process and dispose of at least 100 applications in a fortnight which comes to 200 applications in a month.

Vide order dated 12th April, 2013 passed by this Court, it was directed that the Committee constituted to make recommendations for allotment of alternative plots would meet at least for half a day on every alternate working day and the cause list for the said Committee would have at least 25 matters. CM No. 7007/2013 has been filed in W.P. (C) No. 5944/2010 by the Government of India seeking modification of the aforesaid order.

Having heard the learned counsel for the parties and considered all the facts and circumstances including, the huge backlog of the applications seeking allotment of alternative plots, it is directed that the Committee constituted to consider the applications for allotment of alternative plots will consider at least 250 applications in a month though the effort of the Committee shall be to consider as many applications as may be possible so as to liquidate the pendency at the earliest possible.

It is also directed that the number of Officers/officials engaged exclusively in scrutinizing applications for allotment of alternative plots shall not be reduced by the Government, so long as the pendency does not come to a comfortable level or say 1000 applications.

It is made clear that this order will not come in the way for Government transferring these Officers/officials so long as they are replaced by other Officers/officials.

The writ petitions stand disposed of in terms of aforesaid directions.

It is also directed that a compliance report giving the number of applications considered by the said Committee in a month shall be filed by the Government by way of an affidavit of the concerned Officer by the 15th of each succeeding month. It is also made clear that any disobedience of these directions will render the Officer(s)

concerned liable to action for disobeying the order of the Court.”

11. It is thus obvious that though Rambir Singh and Ishwar Singh and other petitions were individual petitions, not filed in public interest but the learned Single Judge considered the larger issue / question and a final direction has been issued and compliance whereof is being monitored by the Court.

12. It would not be appropriate for us to issue any other direction to address the issue raised in public interest. The order / judgment dated 31st July, 2013 supra has attained finality and the respondents are bound to comply therewith. Any other direction issued by us would result in conflicting orders / judgments and which would do disservice rather than service to the issue raised in public interest.

13. We accordingly dispose of this petition as infructuous.

No costs.

RAJIV SAHAI ENDLAW, J.

CHIEF JUSTICE

JULY 3, 2015
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