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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2077/2015

HARGYAN SINGH

..... Petitioner

Through: Mr. H.P. Chakravorti, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY

THROUGH ITS CHAIRMAN

..... Respondent

Through: Mr. M.K. Singh, Advocate.

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Date of Decision: 11th May, 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed challenging the impugned orders dated 06th May, 2009 and 03rd January, 2014 passed by respondent-DDA. Petitioner also seeks refund of Rs.1,80,930 plus interest @ 7% per annum from the date of deposit i.e. 17th November, 2005 till the date of payment.
2. Admittedly, petitioner was allotted an MIG flat with block dated 14th February, 1990 to 21st February, 1990 on cash down basis. However, the petitioner did not accept the said allotment on the ground that he had not been able to obtain loan from any financial institution and/or from Government. He requested that his registration be considered for further

allotment on hire-purchase basis.

3. Due to delay on the part of the DDA, petitioner was allotted an MIG flat in 2005 at current cost and that too, upon the intervention of the Scheduled Caste and Scheduled Tribe Commission.

4. Since the petitioner raised a grievance with regard to the cost charged, the matter was reconsidered by the DDA. In accordance with the reconsidered decision, the petitioner was charged the cost prevalent for the year 1992-1993 without any interest. The extra amount paid by the petitioner towards interest beyond the price was refunded along with @7% interest thereon.

5. In the present writ petition, it has been averred that the petitioner should have been allotted an MIG flat at 1990 cost and not 1992-1993 cost, as it is the petitioner's case that he should have been allotted a flat in the first draw conducted after 13th June, 1990. Learned counsel for the petitioner emphasises that the petitioner should have been given priority while allotting flat under priority policy. He points out that in 1990, a number of Scheduled Castes and Scheduled Tribes applicants were allotted flats in twenty-five per cent reserved quota.

6. On the other hand, learned counsel for respondent-DDA states that petitioner has been charged the cost for the flat at the rate prevalent in 1992-1993 without interest in accordance with the order dated 06th May, 2009 passed by the Lieutenant Governor and petitioner's further request for allotment of the flat at the 1990 cost had been rejected by the Lieutenant Governor on 03rd March 2011 and 28th October, 2013 as the tail end priority list for allotment of flats was 'extinguished' in 1992-1993.

7. Having perused the papers, this Court finds that the Lieutenant Governor, Delhi, vide a detailed order dated 06th May, 2009 held that the petitioner be charged the cost of the flat at the rate prevalent in 1992-1993 without any interest thereon. The note put up by the Commissioner (Housing) and the decision of the Lieutenant Governor is reproduced hereinbelow:-

“The Chairman, National Commission for SC had called VC on 27.3.2009 to discuss the petition of Shri Hargyan Singh regarding waiver of interest charged by DDA for flat No.77, Pocket-A-2, Sector 18, Rohini. Brief facts of the case are as under:

- 1. Shri Hargyan Singh was registered under NPRS 1979 for LIG flat. Subsequently he applied for change of registration from LIG to MIG. His request was considered favourably and was registered under MIG category.*
- 2. He was allotted a MIG flat at Rohini on cash down basis. Demand letter was issued on 21.02.1990. However, instead of depositing demanded amount, he surrendered the flat on his own and requested that he should be allotted another flat under tail-end priority policy. His name was included in the list of tail-end priority policy.*
- 3. As per policy, a registrant of NPRS was entitled to get another flat if he/she surrendered the flat prior to 31.12.1993 and deposited the surrender charges.*
- 4. Shri Hargyan Singh after a gap of 8 years, approached DDA in 1989 for allotment of a flat under tail-end priority policy on the basis that all SC registrants have been allotted flats under MIG category. His request was examined and he was allotted a flat in Dwarka at current cost. Demand letter was issued in November, 1991. But*

instead of depositing demanded amount, he requested that flat should be given to him at old cost. He also requested for allotment of a flat in Rohini in place of Dwarka. His request was examined and it was decided by the then VC to allot him a flat at Rohini at old cost + interest limited to current cost. Demand letter was issued in December, 2002. Shri Hargyan Singh again requested for not levying restoration charges and interest. The case again examined and a revised demand letter was issued on 30.09.2005. He deposited payment and took over physical possession of flat.

- 5. The allottee is not satisfied with the relief given by DDA and has again approached Scheduled Caste Commission for levying of old cost for the flat at Rohini.*

The main request of the allottee is that he should have been given priority while allotting flat under tail-end priority policy which would entitle him for old cost of the flat.

It is hereby clarified that as per the policy while allotting flats to the registrants under NPRS, there is a 25% reservation quota. Flats are allotted on priority basis under reserved category. A flat was initially allotted to Shri Hargyan Singh in 1990 under 25% reserved quota.

However, there is no policy for giving priority/reservation again under tail-end allotment policy. All registrants are being treated at par under tail-end priority policy and there is not reservation.

In view of above mentioned policy, no further relief can be granted to Shri Hargyan Singh. However as he is continuously approaching Scheduled Caste Commission for relief and insisting that priority under SC quota should have been given to him under tail-end allotment policy also as a special case, a lenient view can be taken. If a priority would have been given to him under tail-end policy, he would been allotted a flat in 1992. As per demand letter dated 30.09.2005, Shri Hargyan Singh was finally allotted a flat at old cost prevailing in 1990 upto dated as per page 487/c., the details are as under:

1. Old Cost of flat	:	Rs.1,54,700/-
2. Simple interest @ 12% p.a. w.e.f. 3/1990 to 3/2002	:	Rs.2,24,315/-
3. Compound Interest @ 7% p.a. w.e.f. 4/2002 to 39.09.2005	:	Rs.1,01,546/-
4. Conversion Charges	:	Rs. 17,700/-
5. Service Charges	:	Rs. 247/-
6. Share money	:	Rs. 100/-
7. Documentary Charges	:	Rs. 75/-
8. Restoration Charges	:	Rs. 2,500/-

TOTAL : Rs.5,01,183/-

As per above calculation, the old cost has been updated with 12% interest upto 3/2002. Had he been allotted flat in 1992, the cost would have been updated upto 1992 only. Therefore, we may, at the most, reduce the simple interest from 12% to 7% compounded from 1992 to 2002. However, this case will not be quoted as a precedent and as NPRS Scheme has already been closed after allotting flats to all eligible registrants, there may not be another similar case.

Submitted for orders.

*Sd/- 6.4.2009 (ASMA MANZAR)
Commissioner(Housing)*

PC ...sd/- 8.4.09

VCsd/-9.4.09

LG....

I have gone through the proposal.

Shri Hargyan Singh opted for 'tail-end priority' after depositing cancellation charges for the flat allotted to him in 1990. From the available record it transpires that all the registrants of SC category under NPRS (MIG) had been allotted flats in 1992-93, whereas Shri Hargyan Singh got the final allotment in 2005 due to the delay on the part of DDA. Therefore, penalizing the applicant by charging of rates prevalent for 1990 and levying interest thereon till September,

2005 is not fair and just.

Considering the above facts and as per equity and natural justice, the cost of flat be charged at the rates prevalent for 1992-93, without any interest thereon. The extra amount paid by Shri Hargyan Singh towards interest etc. beyond the above price be refunded along with 7% interest thereon, after making necessary adjustments.

It is ordered accordingly.

Sd/- Tejendra Khanna
Lt. Governor, Delhi
06 May 2009”

(emphasis supplied)

8. From the aforesaid note, it is apparent that all registrants are treated at par in the tail-end priority. While there is reservation for Scheduled Castes and Scheduled Tribes at the time of initial allotment, there is no reservation at the time of allotment under the tail end policy. Just because certain flats had been allotted to Scheduled Castes and Scheduled Tribes applicants in 1990-1991 does not ex-post facto mean that petitioner is entitled to priority allotment in the tail-end category.
9. Since the tail-end priority list was exhausted in 1992-1993, the Lieutenant Governor has rightly determined that the petitioner should pay the rate prevalent in 1992-1993 without any interest.
10. Consequently, present writ petition, being bereft of merits, is dismissed.

MANMOHAN, J

MAY 11, 2017

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