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

+ **W.P.(C) 3889/2015**

M/S CENTRAL FOOTWEAR CO. Petitioner

Through Mr Jai Ram Garg, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through Mr Satyakam, Advovcate ASC for
GNCT with Mr S.K. Singh, Mr Vinod Kr. Dy.
Sec. of department.

Ms Renuka Arora, Advocate for R2/DSIIDC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **13.07.2017**

1. The petitioner has filed the present petition, *inter alia*, praying that the respondents be directed to allot an industrial plot against the application No. 4875 dated 26.12.1996.

2. It is the petitioner's case that the it had a factory located at Plot No. 19, Swarn Park, Mundka, Delhi which admittedly falls in a non-confirming area and, therefore, under the prevalent policy, the petitioner was entitled for allotment of an industrial plot. The petitioner's request for the same was not being processed. Aggrieved by the same the petitioner preferred a writ petition being W.P. (C) 7604/2007 which was disposed of by an order dated 05.09.2009 which reads as under:-

“The petitioner seeks quashing of an order dated 15.07.2004

issued by the second respondent. The petitioner had applied for allotment of an alternative plot on the ground that he was entitled to reallocation since the factory fell in a non-conforming area. In the impugned letter, authority i.e. Commissioner of Industry stated that factory fell in a conforming area i.e. Udyog Nagar.

Mr Sabharwal, learned counsel for the respondent – Commissioner of Industries submitted that he has instructions to state that after re-examination of the matter, the Commissioner is now of the opinion that the petitioner concern i.e. Central Footwear Company, Plot no.19, Swarn Park, Mundka, falls in a non-conforming area and would be entitled to an alternative plot. A copy of the communication addressed in that regard has been produced. The same is hereby taken on record.

In the light of the above submission, the petition has to succeed; impugned order dated 15.7.2004 is hereby quashed.

The respondents are hereby directed to process the petitioner's application expeditiously and communicate its decision to the petitioner as expeditiously as possible and in any case within two months from today.

Order *dasti*.”

3. The said order has become final as neither any review nor an appeal was filed against the said order. Despite the aforesaid order, the petitioner's application has not been processed. This has led the petitioner to file the present petition.

4. Mr Satyakam, the learned counsel appearing for the respondents states that although the order mentions a letter/communication addressed by the Commissioner of Industries to the learned counsel appearing for the respondent in the aforementioned W.P. (C) 7604/2007, the said communication is not on record of the respondents. The said communication

is also not found on the records of this court.

5. In the aforesaid circumstances, the respondents were called upon to produce the original files on the basis of which the petitioner's application was initially processed. Mr Satyakam, states that those files are no longer available with the concerned authorities. He, however, submits that although the said order has been passed and has become final, the examination of the records as available with the respondents indicates that the petitioner's factory was not located at the address so indicated by him.

6. Since none of the original files are available and undeniably the order dated 05.09.2009 has become final, this court is of the view that the respondents would have to comply with the order dated 05.09.2009 and process the petitioner's application for allotment of an alternative plot. However, it would also be essential for the petitioner to produce at least one document out of the fifteen types of documents as indicated in the respondent's policy to establish that the petitioner had a factory located in the area prior to the cut off date, as claimed by him.

7. Mr Satyakam, learned counsel for the respondents, on instructions of the officers who are present in court, states that if the petitioner is able to produce even a single document from the aforesaid list, his application would be processed forthwith without any further objections. The respondents are bound down to the said statement. The petitioner shall submit any one of the kind of documents as set out at page 205 of the paper book, within a period of two weeks from today.

8. Learned counsel for the petitioner has also drawn the attention of this

court to a certificate of registration issued by the Sales Tax Officer Ward No.63, Delhi. Although the certificate is dated 27.08.2004, it is signed on 31.08.2004. The said certificate indicates that the petitioner's factory existed at Plot No. 19, Mundka, Udyog Vihar, Swarn Park, Mundka w.e.f. 01.01.1994. This plainly indicates that the petitioner's factory was existing in the non-coforming area prior to the cut off date. This is also one of the documents as mentioned in the policy of the respondents.

9. Mr Satyakam, states that this would also require some verification as the noting: "w.e.f. 01.01.1994" is written in hand. The respondent may verify the authenticity of the said document from the records. Needless to mention that if the same is verified, the requirement of the petitioner to produce any single document from the list as indicated by the respondent would stand satisfied and the petitioner's application for allotment would be processed as directed above.

10. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

JULY 13, 2017

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