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

+ **W.P.(C) 6602/2015 & C.M.No.12037/2015**

SATISH CHOPRA

..... Petitioner

Through **Mr.Naushad Alam, Advocate.**

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through **Ms.Manika Tripathy Pandey with
Mr.Ashutosh Kaushik, Advocates.**

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Date of Decision : 30th March, 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 seeking quashing of the computerised draw conducted by the respondent-DDA based on random number technique. Petitioner has also prayed for allotment of a Janta flat under the physically handicapped category.
2. Learned counsel for the petitioner states that locality-wise implementation of the reservation scheme is contrary to the guidelines under the DDA Housing Scheme, 2010. He submits that locality-wise reservation scheme has been implemented in such a manner that one per cent of surrendered flats have not been allotted to persons falling under the physically handicapped category.
3. Learned counsel for the petitioner points out that though 511 flats had

been surrendered/cancelled, yet the petitioner's name did not appear in the list of allottees, even though the petitioner was at serial no.5 in the waiting list.

4. On the other hand, learned counsel for the respondent-DDA states that one per cent of the total flats have been allotted to the physically handicapped persons. She refers to and relies upon the averments in the affidavit dated 9th February, 2017, which read as under:-

“3. That it is categorically stated that 16118 flats were allotted in the main draw and out of which a clear 1%, i.e. 161 flats were allotted to the Physically Handicapped (PH) Category.

4. Further, in the main draw, even category wise a clear 1% was allotted to the PH Category. A total number of 668 flats were allotted for the Janta Category. Thus 7 flats (1% of 668) were allotted for PH quota, wherein the Petitioner was not successful.

5. That it is humbly reiterated that while making the allotments, the physically handicapped persons are allotted the flats first up to their specified reservation as they are supposed to be given the ground floors.

6. That after the main draw, a separate list of 600 applicants was made for the waitlist. The total allotments made in the waitlisted draw was 134. A clear 1 per cent allotment was made in the PH Category. That is 1 flat was allotted to the PH category.

7. That for the wait list draw, even category wise, total Janta Flats were only 70 and hence only 1 flat was allotted under PH category (1% of the total Janta Flats).

8. That keeping in mind the aforesaid submissions, the petitioner/Sh.Satish Chopra is not entitled for allotment for DDA flats and the petition is liable to be dismissed.”

(emphasis supplied)

5. In rejoinder, learned counsel for the petitioner relies upon para 3.1 of the response affidavit dated 20th March, 2017, which reads as under:-

“3.1. In the affidavit filed on behalf of DDA it has been stated that 16118 flats were allotted in the main draw and out of which a clear 1%, i.e, 161 flats were allotted to the physically handicapped (PH) category. I say that firstly to the best of my knowledge availability of 16237 flats were indicated under the 2010 DDA Scheme and secondly 162 flats out to have been allotted overall to the PH quota as per the stand of DDA itself. It is a matter of record that respondent prepared waiting list of 600 applicants in terms of guidelines provided under para 7 of the scheme. Six people (1% of 600) were kept under the said reserved category and the name of the petitioner was at Srl. No.5. If all the allotment to PH quota were done as stated under the para 3 of the affidavit filed by the respondent, then what was the need of publishing the list of wait list applicant. It is also an admitted position that 511 flats were surrendered and out of which only 131 flats were allotted. Status of the rest of the flats i.e, 337 is not known in a situation where the Scheme is of the year 2010 and now we are in 2017 (@ page 60 to 68 of the writ petition). Respondent thus out to have given 1% reservation again out of the 511 flats surrendered. Then only it can be said that 1% reservation criteria has been achieved. Thus the DDA is taking contradictory stands.”

(emphasis supplied)

6. A perusal of the paper book reveals that Clause (3) of the DDA Housing Scheme, 2010 stipulates that one per cent of the flats had to be allotted to physically handicapped persons.

7. Admittedly, out of 16,118 flats allotted in a mini draw, 161 flats had been allotted to the physically handicapped persons. In the main draw even category-wise one per cent reservation policy was followed as out of 668 Janta flats, 7 flats were allotted under the physically handicapped category.

Thus, one per cent reservation under the physically handicapped category has been complied with.

8. Further, though a separate waitlist of 600 applicants was drawn up, yet only 134 flats in the waitlisted category were allotted and following one per cent reservation principle, one flat was allotted under the physically handicapped category. Consequently, one per cent reservation policy for physically handicapped category has been followed by the respondent-DDA.

9. Moreover, to determine whether one per cent reservation under the physically handicapped category has been complied with or not, the Court has to see whether out of the total allotments made, one per cent of the said flats have been allotted under the physically handicapped category. It may well happen that though 600 flats may have been surrendered, yet they may all belong to the general category. It may also happen that out of 600 flats that had been surrendered, DDA may take a policy decision to not allot any of the surrendered/cancelled flats. In such eventualities, to ask the respondent-DDA to give one per cent reservation out of the flats surrendered would be neither fair nor reasonable.

10. Consequently, as the one per cent reservation policy has been adhered to and given effect to, present writ petition and application are dismissed. However, if and when, DDA makes future allotment under the waitlisted category, they shall comply with the one per cent reservation policy.

MANMOHAN, J

MARCH 30, 2017
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