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

+ **W.P.(C) 5962/2017**

DEVKI NANDAN

..... Petitioner

Through: Ms Zubeda Begum, Ms Sana Ansari,
Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Mr Apoorv Kurup, Mr Avanish Rathi,
Advocate for UOI.
Mr Sandeep Mahapatra, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **27.11.2018**

1. The petitioner has filed the present petition, *inter alia*, praying as under:

- “a) issue a writ of mandamus directing the respondent to allot quarter any nearby Govt. colony nearest to Netaji Nagar.
- b) issue a writ of certiorari declaring the action of the respondent in allotting quarters suffering from arbitrariness
- c) issue a writ of certiorari declaring the action of the respondent is in violation of rules in the allotment of type-III quarters on proposed re development of Netaji Nagar.
- d) to allocate shifting allowance.”

2. The petitioner is, essentially, aggrieved by the action of the respondent allotting her the alternate accommodation/quarter in Sadiq Nagar

instead of Netaji Nagar. The petitioner contends that the said allotment is arbitrary inasmuch as the respondent has not followed the prescribed allotment policy of government quarters as per the set guidelines.

3. The petitioner joined the Government employment on 24.08.1992. Thereafter, the petitioner applied for Government quarter. Admittedly, in the year 2006, the respondent (Directorate of Estates) allotted Type-III quarter to the petitioner in Timarpur, on the basis of petitioner's entitlement.

4. On account of family problems, the petitioner refused to accept the allotment of the aforesaid quarter. Accordingly, the respondent advised the petitioner to utilize 'technical change' option, which meant that the petitioner had to continue to pay for the allotted quarter and wait till such time a quarter, which is desired by the petitioner, becomes available.

5. The petitioner availed the said option and subsequently, he was allotted a quarter being no. A-2370 in Netaji Nagar, New Delhi.

6. Thereafter, in the year 2016, the respondent took a decision to redevelop Netaji Nagar. The development programme was awarded to NBCC and accordingly, NBCC requested the respondent to direct the government employees to vacate the allotted quarters in Netaji Nagar.

7. Netaji Nagar was declared as the proposed development colony in 2016. Thereafter, on or about 10.12.2016, the petitioner received a letter wherein it was stated that in terms of the Office Memorandum (OM) dated 15.09.2014 issued by the respondent, the allotment of quarter to the petitioner (in Netaji Nagar) stood cancelled and an alternate accommodation

was to be determined and allotted to the petitioner, as per certain conditions which are set out below:

“1. Same type of General Pool Residential Accommodation (GPPA) shall be offered FOR Netaji Nagar residents considering the large number of alternation accommodations to be provided to the occupants of this Colony as well as other GPRA colonies identified for re-development.

2. In case of departmental Pool quarters also the same type of accommodation shall be provided.

3. All allotment shall be made through Automated system of Allotment (ASA) giving 3 months time to the occupants to get allotments of their preferences, failing which Directorate of Estates Will allot quarters on its own and cancel the existing quarters in Netaji Nagar.”

8. Thereafter the petitioner, in terms of the letter dated 10.12.2016, applied for the allotment of quarter through Automated System of Allotment (ASA) for GPRA, submitting preference lists of ten quarters for the areas R.K. Puram, North-West Moti Bagh and Lodhi Colony through the preference lists dated 25.01.2017 and 25.03.2017.

9. Thereafter, another office memorandum dated 12.04.2017 was issued by the respondent for allotment of alternate accommodation due to re-development of GPRA colonies. In terms of the said memorandum, the criteria for allotment of alternate accommodation, is set out below:

“a) First preference will be accorded to the allottees who were allotted the existing quarters, on adhoc basis through Medical/CCA/Functional/ Regularization, etc grounds.

b) Second preference will be accorded to the allottees who

were allotted existing quarter in Ladies Pool.

c) The third preference will be accorded to the allottees who have participated in the mandatory bidding cycles and were not allotted any quarters.

d) The fourth and final preference will be accorded to the allottees who have not participated in the mandatory bidding cycles.”

10. Subsequently, the petitioner was allotted Type-III quarter being no. 325, Sector-3, Sadiq Nagar by an allotment letter dated 12.04.2017. Aggrieved by the aforesaid allotment, the petitioner made a representation dated 13.04.2017 to the respondent stating that the quarter allotted at Sadiq Nagar was causing grave hardship to his family, but to no avail.

11. It is pertinent to state that several other employees who were dissatisfied with the manner in which GPRA was being allotted have also filed petitions before this Court. The present petition was considered alongwith the said batch of petitions. On 13.11.2017, Mr Sanjay Jain, learned ASG appearing for the respondent made a statement that an affidavit indicating a comprehensive policy would be placed before the Court and no allotment would be made except in the manner as stated in the said affidavit. Thereafter, an affidavit indicating the policy was filed before this Court. Subsequently, the respondent issued an Office Memorandum dated 14.03.2018 indicating the comprehensive policy for allotment of GPRA.

12. In the meanwhile, this Court also examined the petitioner's grievance that certain persons, who were lower in order of priority, had been allotted GPRA in preference to the petitioner. The respondent had from time to time furnished explanations with regard to such allotments. After hearing the

arguments on 17.09.2018, the learned counsel appearing for the petitioner restricted the challenge in the petition on two fronts. First, she submitted that the petitioner fall in Category-III persons – *“who have participated in the mandatory cycle of allotment process, but could not get allotment as per their preferential location.”* – but have been considered in Category-IV. She explained that Category-IV was lower in order of preference and comprised of allottees *“who have not participated in cycle of allotment process, either willingly or having failed to which so despite efforts”*.

13. Second, she submitted that there are certain persons (19 in number) who have been allotted Type-III flats although they have been allotted Type-IV flats and had also taken possession of the same. She contended that allotment of Type-III flats to such persons was in violation of the policy framed by the respondent.

14. In view of the above, this Court by an order dated 17.09.2018 clarified that apart from the above contentions, no other issues would be considered by the Court. The respondent was also called upon to file an affidavit to respond to the aforesaid contentions.

15. In compliance with the order dated 17.09.2018, the respondent filed an affidavit unequivocally affirming that the petitioner was, in fact, considered as a part of Category-III and was allotted Quarter No.1A, Ground Floor, Block-55, Sector-2, DIZ Area, New Delhi by a computerized draw conducted by NIC.

16. The learned counsel appearing for the petitioner had disputed the aforesaid statement and had submitted that the respondent was manually

allotted GPRA and the same was only collated by NIC.

17. In view of the aforesaid submissions, this Court had also called upon the respondent to indicate the process adopted by NIC for allocating flats to various allottees. In response, the respondent had submitted that NIC had formulated a policy for allocating demand weightage on the basis of bidding logged in ASA. The said formula is set out below:-

Demand Weight =

$$\frac{\text{No. of bids} \times \text{No. of vacancies opted}}{\text{Opted vacancy's average priority} \times \text{No. of vacancies}}$$

The allotment is made as per the date of priority and category.

18. In view of the above explanation, this Court finds no merit in the contention that the petitioner was not considered in Category-III or that the draw of lots conducted by the NIC is only to camouflage the manual allotment done by the respondent.

19. With regard to the petitioner's grievance regarding persons (19 in number) who had been allotted Type-III accommodation despite participating for the bidding process for Type-IV flats, the respondent explained that the persons in question were allotted Type-III accommodation in terms of the comprehensive policy and as per draw of lots in relation to allottees that were being compulsorily shifted. The said persons were also given an opportunity to participate in the general bidding under ASA and in the meanwhile, they were also entitled for being allotted an accommodation of a higher category as per their seniority.

20. In view of the above explanation, this Court is unable to accept that the petitioner's grievance in this regard is justified.

21. In addition to the above, Ms Zubeda Begum had also submitted a list of eighteen persons whom she claimed were lower in the order of priority but had been allotted flats which were in preference to the petitioner. The said grievance is also unmerited, as it is seen that thirteen persons out of the aforesaid names had been allotted GPRA in Vasant Vihar Area on 03.07.2018.

22. Admittedly, the petitioner had not opted for GPRA in that area. Further, they also explained that under the formula for draw of lots, quarters in Vasant Vihar are placed lower in order of preference than DIZ Area. Five other names as mentioned in the list were allotted accommodation on 12.04.2017, prior to the framing of the comprehensive policy (Office Memorandum dated 14.03.2018).

23. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

NOVEMBER 27, 2018

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