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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P. (C) 3744/2020**

SMT. KELA DEVI

.....Petitioner

Through: Mr Ankit Singh, Advocate.

versus

LT. GOVERNOR OF DELHI & ORS.

..... Respondents

Through: Mr Devesh Singh, ASC for R-1,3,4
and 7.

Mr. Rajesh Gogna, CGSC with Ms.
Aakanksha Kaul, Mr. Manek Singh
and Ms. Akshya, Advocate for R-2.

Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for R-8.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **09.09.2020**

The hearing was conducted through video conferencing.

1. This petition seeks the following reliefs:

“a) A Writ of Certiorari calling for the records of the case and peruse the same;

b) A Writ of mandamus directing the Respondents to allot land lying vacant in khasra no. 428/309, measuring 2 bigha and 11 biswa of Village Babar Pur, Shahdara, Delhi or in the alternate,

Any other land of Gram Sabha, Village Babar Pur lying vacant, in consequent upon the judgment of this Hon'ble Court passed in C.W.P. No. 4534/1993 titled as Shri Balbir Singh and Others Vs. Union of India and Ors. dated 27.02.2003;

c) A Writ of mandamus commanding the respondents to pay the costs of this petition to the petitioner...”

2. The cause has been espoused by the petitioner after almost 35 years of the Government's Twenty-Point Programme. There is a delay of almost 17 years after the decision dated 27.02.2003 of this Court in C.W.P. No. 4534/1993 titled as '*Shri Balbir Singh and Others v. Union of India and Ors*'. The said judgment, *inter alia*, directed as under:

"In view of this, no relief can be granted in this Writ Petition. However before parting I may observe that the respondents had been considering the question of allotment of land to these landless labours. It is not in dispute that the petitioners and other similarly situated person belong to weaker section of the society and are landless. In these circumstances it would be desirable for the respondents to find out if any other land is available in the village which can be allotted to such persons and take appropriating decision in this respect...."

(emphasis supplied)

3. In *Balbir Singh (supra)* the petitioners right to allotment had not been established. In the absence of accepted entitlement, the claim to allotment of a particular land was untenable. The petitioner's case is no better. Mr Devesh Singh, the learned ASC for the GNCTD submits that this issue is no more *res integra*, as it has been dealt with extensively in this Court's order dated 01.12.2017 in *Mool Singh & Anr. Vs Lt. Governor of Delhi & Ors.*, W.P. (C) No. 19564/2005 which held, *inter alia*, as under:

"...7. This Court is not persuaded to accept the aforesaid contention. First of all, the decision rendered by this Court in W.P.(C) No.4534/1994 is unambiguous: this court had clearly held that the petitioners were not entitled to allotment in terms of the resolution passed to give effect

the 20-Point Programme. Concededly, no allotment was made in favour of the petitioners. Secondly, it is seen that more than three decades have now passed from the date of the resolution by virtue of which the petitioners claim the right to allotment of land. The parameters for a welfare scheme that were applied at that stage may no longer hold good three decades later.

8. The present petition was filed in the year 2005 and has been pending in this court for the last 12 years. It is apparent from the orders passed by this Court that the controversy that has engaged this Court largely revolved around the issue whether the land in Khasra no.428/309 in Village Babarpur is vacant and available for distribution. Admittedly, the said land is in possession of the Municipal Corporation of Delhi (now East Delhi Municipal Corporation - EDMC). Initially, it was stated that the said land was a part of a school being run by EDMC. The petitioners claim that the same was converted by EDMC into a parking lot.

9. There is considerable controversy as to whether EDMC is entitled to occupation of the said land. According to the petitioners, the said land has not been allotted to EDMC and continues to belong to Gram Sabha. EDMC, on the other hand, disputes the same. In my view, the aforesaid controversy is not material as it is not disputed that EDMC is in possession of the land in question and no action has been initiated for recovering possession of the land from EDMC. The matter whether EDMC ought to be evicted from the land in question is plainly within the discretion of the land owning agency. The petitioners have no vested right for being allotted any land and, therefore, are not entitled to seek any direction that EDMC be evicted from the land in question.

10. Even if the land owning agency was to recover the possession of the land in question from EDMC, the petitioners would have no right to demand that the same be allotted to them. At best, the petitioners can request the concerned authorities to consider allotment of land in their

favour as a welfare measure. The question whether such measures ought to be taken is entirely at the discretion of the concerned authorities....”

(Emphasis supplied)

4. In view of the above, at best the petitioner can make a representation to the government to consider her eligibility for allotment of land, if it is so possible.
5. Accordingly, this writ petition shall be treated as a representation of the petitioner and decision of the Government taken in this regard shall be communicated to the petitioner, within six months.
6. The petition is disposed-off in above terms.
7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through e-mail.

NAJMI WAZIRI, J

SEPTEMBER 09, 2020/rd