

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

% **Date of order: 21st November 2022**

+ **W.P.(C) 11118/2017**

HARGOVIND

..... Petitioner

Through: **Mr. S. K. Rout and Mr. Prabitra
Kumar, Advocates**

versus

GOVT OF NCT DELHI AND ANR

..... Respondents

Through: **Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha, Mr. M. S. Akhtar and
Ms. Rini Violet Tigga, Advocates for
R-1 and R-2**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition under Article 226 of the Constitution of India has been filed by the Petitioner, *inter alia*, seeking the following reliefs:

(i) Issue a Writ Order or direction thereby quashing the letter dated 30.10.2017; and

(ii) Pass a Writ of Memorandum thereby directing the Respondents to recommend the name of the Petitioner to DDA for allotment of a alternate plot in terms of the Policy of the Respondents.

2. The brief facts of the instant case are that the father of the Petitioner was an Agriculturist by profession and owned an agricultural land in Village Jogabai, Tehsil, Defence Colony, District South-East, New Delhi. The

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Respondent issued a notification under Section 4 and 6 of the Land Acquisition Act, 1894 and the land of the father of the Petitioner was acquired vide an award dated 16th September 1999.

3. The father of the Petitioner applied for the allotment of alternate plot on 18th January 2007. On 5th July 2016, the Respondent intimated the father of the Petitioner about the deficiencies in his application and requested to produce certain documents to the office of Deputy Secretary of the Respondents.

4. On 16th November 2016, in response of the said letter, the father of the Petitioner submitted certain documents as required by the Respondents. Vide letter dated 2nd January 2017, the Respondents asked for certain other documents namely, Complete Revenue Record; Status of remaining land; Election I-Card. Vide letter dated 1st March 2017, father of the Petitioner submitting the following documents:

- a. Khatauni
- b. Status of remaining land
- c. Election I-card and Aadhar Card

5. Vide letter dated 2nd January 2017, the Respondents again asked for certain documents to which the Petitioner replied by saying that that all the necessary documents have already been supplied to the Department.

6. Vide order dated 30th October 2017; the Respondent rejected the case of the Petitioner on the ground that requisite documents have not been submitted by the Petitioner in spite of multiple opportunities.

7. Aggrieved with the rejection of his application, the Petitioner has approached this Court by way of the instant writ petition.

8. Learned counsel appearing on behalf of the Petitioner has made the following arguments:

- a) The order dated 30th October 2017 has been passed without application of mind by the Respondents. It is submitted that the perusal of the said letter shows that the grounds taken by the Respondents is the non-submission of the documents as mentioned in the said letter whereas the fact remains that the documents sought by the Respondents were duly submitted vide letters dated 16th November 2016 and 1st March 2017 and he again informed about the submission of the documents vide letter dated 5th April 2017.
- b) The Petitioner obtained the copy of file no. 32(35)/01/2007/L&B/Alt. through RTI dated 4th December 2017 and it came to knowledge of the Petitioner that the documents submitted by the Petitioner on 24th October 2017 have not been placed on the file. It is submitted thereafter, the Petitioner tried to contact the Respondents, but neither any information was provided nor any action taken upon the request to the Petitioner till date.

9. *Per Contra*, learned counsel appearing on behalf of the Respondent has submitted that the Petitioner has been given multiple opportunities to submit the documents and it is only after that the case of the Petitioner has been rejected. It is further submitted that all the above-said letters were sent to the Petitioner through ordinary post while duly noting the same in the dispatch register maintained for all such communications sent, and all the said letters were duly received by the Petitioner in the ordinary course of business of the postal authorities.

10. Heard learned counsel for the parties and perused the record.

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11. This Court has perused the rejection order dated 30th October 2017 and considers it appropriate to reproduce the relevant portion:

“With reference to the above mentioned subject, it is inform you that your case for allotment for alternative plot in lieu of acquired land has been placed before in meeting of Recommendation Committee held on 29.8.2017 and it was observed that you have not furnished the requisite documents Complete Revenue Record, Affidavit, Ownership/occupancy inr/o claim of alternative plot in spite of being given sufficient opportunity and public notice issued in leading Newspaper, The Hindustan Times (English) & Navbharat Times (Hindi) on 29.7.2017. Wherein a final opportunity was provided to claimant/applicants to submit the deficient documents within 30 days of issue of Public Notice i.e. on or before 29.8.2017

*Accordingly, on perusal of record available in the file, the Committee decided that the **Case may be rejected** for non-submission of requisite document and same has been approved by Competent Authority. Hence the case has been **REJECTED.**”*

12. At the outset, it is important to discuss the object behind the Scheme for Large Scale Acquisition Development & Disposal of Land, 1961 in Delhi. The Scheme for Large Scale Acquisition Development & Disposal of Land in Delhi came into force on 2nd May 1961 and has been modified from time to time. The Scheme not only provided for measures for controlling value in urban areas but also largely regulated the conditions stipulated for acquisition, development and disposal of land.

13. In ***Surinder Singh Mann vs. Government of NCT of Delhi, W.P.(C) 12306/2015*** decided on 25th August 2017 the Coordinate Bench of this Court observed as under:-

“7. At this stage, it would also be useful to extract the eligibility criteria of the Government which had been approved by the Government of NCT of Delhi in the year 1961 dealing with allotment of alternate plots. The object of the scheme reads as under:-

“The scheme of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure.”

8. The object thus clearly being to provide developed residential plots to farmers whose land had been acquired for the planned development of Delhi; this being a rehabilitative measure.

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12 The Policy of the Government as is evident from the scheme was to provide residential plots to farmers whose land had been acquired; it was a rehabilitative measure; meaning thereby that it was to rehabilitate those farmers whose land had been acquired as they had become homeless or landless.”

14. In ***State of M.P. vs. Narmada Bachao Andolan***, (2011) 7 SCC 639, the Hon’ble Supreme Court elaborated on the general principle and provisions for rehabilitation and observed as under:

“Land acquisition and rehabilitation: Article 21

26. It is desirable for the authority concerned to ensure that as far as practicable persons who had been living and carrying on business or other activity on the land acquired, if they so desire, and are willing to purchase and comply with any requirement of the authority or the local body, be given a piece of land on the terms settled with due regard to the price at which the land has been acquired from them. However, the State Government cannot be compelled to provide alternate

accommodation to the oustees and it is for the authority concerned to consider the desirability and feasibility of providing alternative land considering the facts and circumstances of each case.

27. In certain cases, the oustees are entitled to rehabilitation. Rehabilitation is meant only for those persons who have been rendered destitute because of a loss of residence or livelihood as a consequence of land acquisition. The authorities must explore the avenues of rehabilitation by way of employment, housing, investment opportunities, and identification of alternative lands.

“10. ... A blinkered vision of development, complete apathy towards those who are highly adversely affected by the development process and a cynical unconcern for the enforcement of the laws lead to a situation where the rights and benefits promised and guaranteed under the Constitution hardly ever reach the most marginalised citizens.” (Mahanadi Coalfields Ltd. case [Mahanadi Coalfields Ltd. v. Mathias Oram, (2010) 11 SCC 269 : (2010) 4 SCC (Civ) 450 : JT (2010) 7 SC 352] , SCC p. 273, para 10) for people whose lives and livelihoods are intrinsically connected to the land, the economic and cultural shift to a market economy can be traumatic. (Vide State of U.P. v. Pista Devi [(1986) 4 SCC 251 : AIR 1986 SC 2025] , Narpat Singh v. Jaipur Development Authority [(2002) 4 SCC 666 : AIR 2002 SC 2036] , Land Acquisition Officer v. Mahaboob [(2009) 14 SCC 54 : (2009) 5 SCC (Civ) 297] , Mahanadi Coalfields Ltd. v. Mathias Oram [Mahanadi Coalfields Ltd. v. Mathias Oram, (2010) 11 SCC 269 : (2010) 4 SCC (Civ) 450 : JT (2010) 7 SC 352] and Brij Mohan v. HUDA [(2011) 2 SCC 29 : (2011) 1 SCC (Civ) 336].) The fundamental right of the farmer to cultivation is a part of right to livelihood. “Agricultural land is the foundation for a sense of security and freedom from fear. Assured possession is a lasting source for peace and prosperity.” India being a predominantly agricultural

society, there is a “strong linkage between the land and the person's status in [the] social system”.

15. Hence, it is evident that the Scheme of 1961 was introduced as a means to provide for those whose land is acquired for the purposes of development and to ensure that such persons are not rendered homeless or landless in the event of such acquisition.

16. On perusing the record, it is evident vide letter dated 5th July 2016 that the Respondent classified multiple deficiencies in the application for allotment of alternative plot submitted by the Petitioner on 18th January 2007. On 16th November 2016, the Petitioner submitted certain documents sought by the Respondents. On 2nd January 2017, another opportunity was given to the Petitioner to provide for the remaining deficiencies as certain documents were not submitted by the Petitioner and vide letter dated 1st March 2017 some documents were submitted by the Petitioner to the Respondents. But counsel for the Petitioner has failed to show from the record that all the documents were submitted by the Petitioner. Even after this, some opportunity were given to the Petitioner vide letter dated 2nd January 2017 and a Public Notice dated 29th July 2017 was published in Hindustan Times (English) and Navbharat Times (Hindi) and a last and final opportunity was granted to submit the deficient documents.

17. Accordingly, it was concluded by the Recommendation Committee that the Petitioner was not interested to pursue the matter since he did not submit the requisite documents despite many notices and a public notice.

18. The petitioner has not been able to prove his case for being considered for the allotment of alternate land because of the deficiencies and inaction on his part.

19. As per the mandate of the Scheme of 1961, the application for allotment of alternative plot has to be made in accordance with the conditions laid therein. These conditions not only specify the eligibility criteria but also provide for the limitations that need to be considered while adjudicating upon application for allotment of an alternative plot. The conditions stipulated in this matter have stemmed from the Scheme of 1961 and its subsequent amendments and hence, have to be given foremost importance regarding adjudication of application for allotment of alternative plot and while its consideration by the concerned authority.

20. Public Notice is one important means of notification to the citizens at large or to a section of stakeholders regarding a proceeding ongoing before an authority. The ordinary business practice is to publish the public notice in two different languages in widely-circulated newspapers, and containing all necessary information. The said notice must be achievable, accessible and verifiable. In the case of ***Sridhar M. A. Vs. Metalloy N. Steel Corporation (2000) 1 SCC 397***, the Hon'ble Supreme Court held that in appropriate cases, deemed service of notice may be accepted by the Court and this will depend on the facts of each case. Accordingly, in the instant case, the public notice made shall be considered to be deemed notice to the petitioner.

21. Therefore, in light of the facts and circumstances, the contents of the impugned letter in the background of the Scheme of 1961, and the observations as aforementioned, it is found that the rejection order dated 30th

October 2017 does not suffer from any illegality, impropriety or error apparent on the face of record.

22. Accordingly, the instant writ petition, along with pending applications, if any, being devoid of merits is dismissed.

23. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

NOVEMBER 21, 2022
Aj/mg



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