

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

% **Date of order : 4th November, 2022**

+ **W.P.(C) 13874/2018**

KALI RAM

..... Petitioner

Through: Mr. Mohit Siwach and Mr. Rishabh
Sharma, Advocates

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Ms. Jyoti Tyagi, Advocate for
GNCTD

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The Petitioner has filed the present petition under Article 226 of the Constitution of India seeking *inter alia* the following reliefs:

“Issue a writ of certiorari or any other appropriate writ, order or direction for quashing the resolution/ order dated 29.08.2017 passed by the recommendation committee and minutes dated 08.09.2017 constituted by the office of the respondent, in respect of file serial no. F.33(27)/22/2007/L&B/ALT/4969 and Computer SNTY No. 6369, thereby petitioner's application dated 18.05.2007 for allotment of alternative plot in lieu of the acquired land has been rejected;

Issue a writ of certiorari or any other appropriate writ, order or direction for calling the complete relevant record of the rejection of application of the petitioner's application dated

18.05.2007 for allotment of alternative plot in lieu of the acquired land from the, office of the respondents;”

2. The Petitioner is the owner of 1/3rd share of agricultural land comprising of Khasra no. 134/26, measuring 14 bighas and 17 biswas situated in the revenue estate of Village Burari, Delhi-110084. On 18th July 2003, the appropriate Government issued a notification under Section 4 of the Land Acquisition Act, 1894 vide notification No. F.11(30)/2003/L&B/LA/6600. The objections received were heard and a report thereof u/s 5-A of the Land Acquisition Act, 1894 was sent along with the original objections to the Secretary, Land & Building Department.

3. Thereafter, on 8th January 2004, a declaration under Section 6 of the Land Acquisition Act, 1894 was also made vide notification No. F.11(30)/03/L&B/LA/23254 for permanent acquisition of land measuring 1448 bighas 1 biswa (301.66 Acres) in Village Burari, Delhi including the land of the Petitioner comprising of 1/3rd share of agricultural land comprising of Khasra no. 134/26, situated in the revenue estate of Village Burari, Delhi-110084, total land area measuring 14 Bighas & 17 Biswas, and an award under Section 11 of the Land Acquisition Act, 1894 being Award No. 02/LAC/N/05-06 was drawn on 7th January 2006.

4. The possession of the land acquired was taken on 29th May 2006 and on 28th June 2006, compensation was disbursed to the Petitioner by the Land Acquisition Collector as there was no dispute in entitlement of payment. The Petitioner on 18th May 2007 applied for allotment of alternative plot in lieu of acquisition of his agricultural land under the scheme of Large-Scale Acquisition, Development and Disposal of Land in Delhi, 1961. His application was dealt with the office of the Respondent vide file bearing W.P.(C) 13874/2018

serial No. F.33(27)/22/2007/L&B/ALT/4969 and Computer SNTY No. 6369.

5. In the year 2016, application of the Petitioner was taken up for consideration by the Respondent and the Petitioner was requested to submit certain documents/information within 30 days and the petitioner was given an opportunity for personal hearing of his case and was requested to appear before the Recommendation Committee on 22nd July 2016 vide letter No. F.33(27)/22/2007/L&B/ALT/4969. On 2nd August 2016, the Petitioner submitted certain documents as directed by the Deputy Secretary (Task Force) under written acknowledgment of Land & Building Department.

6. The Petitioner vide letter dated 18th October 2017, bearing No. F.30 (27)/22/2007/L86B/ALT/7810 was informed by the Respondent that the Recommendation Committee in its meeting dated 29th August 2017 observed that as the applicant has not furnished the requisite documents i.e., Affidavit, Indemnity Bond, Statement-A, ownership status of remaining land, occupancy status and ownership status affidavit, his case for allotment of the alternative plot in lieu of the acquired land is rejected.

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

8. Learned counsel appearing on behalf of the Petitioner has submitted that as per the Scheme of Large Scale Acquisition Development and Disposal of Land in Delhi, 1961, for the allotment of an alternative plot, the Petitioner had submitted his application for allotment of an alternative plot in the office of the Respondent, in a proper manner with all the supporting documents. It is further submitted that the application of the Petitioner was dismissed by the Respondents without application of mind and without

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observing the principles of natural justice and hence, is arbitrary and erroneous.

9. It is further submitted that the Respondents and its officials have failed to consider and verify their own records as regards submission of documents. It is vehemently submitted that Petitioner has submitted all the documents as were directed by the Respondents and all of them are available on record and therefore, there is complete negligence and non-consideration of mind by the Respondents.

10. It is further submitted that the Respondents have failed to consider that in response to each letter, the Petitioner appeared before the Respondents and submitted the required documents and thus, there had been no lapse or carelessness by the Petitioner and hence, the impugned decision dated 18th October 2017 cannot be sustained in the eyes of law.

11. It is also submitted that the Respondents ought to have considered that once the Rehabilitation policy is for the benefit of the persons whose land has been acquired by the Government and hence, all efforts should be made to provide the entitled benefit to the concerned person and the Application ought not to have been rejected on such technical grounds even without affording any opportunity of being heard or granting an opportunity to remove the anomaly or provide the required documents, if any. It is submitted that such rejection of the Application of the Petitioner by the Respondent is clear violation of the Rehabilitation Policy and is also in violation of fundamental rights guaranteed to the Petitioner under Constitution of India.

12. *Per Contra*, learned counsel appearing on behalf of the Respondent submitted that the Petitioner has been given multiple opportunities to submit

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the documents and it is only after that the case of the Petitioner has been rejected. Vide letter dated 13th July 2016, the Petitioner was asked to furnish deficient documents including those of complete revenue records, the affidavit in prescribed format, the status of remaining land, indemnity bond and ownership status of property number 505, VPO Burari.

13. It is further submitted that despite in receipt of letter dated 13th July 2016, whereby the Petitioner was requested to furnish deficient documents, the Petitioner submitted some document on 2nd August 2016 and the Respondent issued another letter dated 6th October 2016 and the Petitioner was requested to furnish deficient documents once again. Having received no further documents from the Petitioner in spite of the communication dated 6th October 2016, the Respondent issued another letter dated 9th January 2017 whereby the Petitioner was again requested to furnish the deficient documents.

14. 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 both the said letters were duly received by the Petitioner in the ordinary course of business of postal authorities. In such a situation, where the applicants such as Petitioner were not coming forward over the years to submit the required deficient documents despite issuance of numerous letters, the competent authority i.e., the Principal Secretary of the answering respondent took a conscious decision that one final opportunity may be given to all the applicants whose applications are pending for want of deficient documents. The idea was to squeeze out the bogus and unscrupulous claimants who have, been blocking the queue for other genuine claimants as the

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applications were to be decided on basis of seniority and in the absence of complete documents, the seniority list could not move. Accordingly, vide Public Notice dated 29th July 2017, published in Hindustan Times (English) and Navbharat Times (Hindi), a last and final opportunity was granted to all the applicants to submit the deficient documents, the details of which were even duly uploaded on the official website of the Respondents.

15. It is also submitted that there has to be some finality in the administrative decision taken by the Respondent and accordingly, the Respondent has passed the rejection order with good conscience and there is no illegality or infirmity in the rejection order which requires interference by this Court.

16. Heard learned counsel appearing on behalf of the parties and perused the record.

17. At the outset, it is important to discuss the object and fabric behind the Scheme for Large Scale Acquisition Development & Disposal of Land, 1961 in Delhi.

18. 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.

19. The objective of the Scheme of 1961 suggests as under:

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

20. This objective has also been reiterated by this Court as well as the Hon'ble Supreme Court in various cases. The Coordinate Bench of this Court in ***Jai Singh Kanwar vs. Union of India, 2008 SCC OnLine Del 492***, made the following observations:-

“7.2 Giving its imprimatur to the policy the Full Bench in Shiv Devi Viriley explained the rationale for the policy was to see that the population of Delhi is properly housed and has the means for acquiring residential houses and further that if a person has bought a residential plot privately and the State chooses to acquire that land at a very meagre price, then surely it is the duty of the State to give an alternative plot at a moderate price to those persons who have been deprived of possible residential houses, which they could have constructed on the land they have acquired”

21. Further, in ***Surender 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.”

22. 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”.

23. 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.

Rejection/Impugned Order

24. The relevant portion of the minutes of the meeting of the Recommendation Committee dated 29th August 2017 is reproduced below:

“During the last meeting of the Committee, it was observed that in cases where two or more deficiencies memos have been issued shall be given final opportunity by way of public notice. Accordingly, a public notice was issued on 29.07.2017 in “Hindustan Times (English)” and “Navbharat Times (Hindi)” asking total numbers of 318 applicants to submit required documents as per the detail available on the departmental website within a period of 30 days from the date of publication of notice, failing which the recommendation committee will consider those 221 cases on the basis of existing documents.

On observation, the complete requisite documents have not been found submitted in all those 221 cases annexed herewith as annexure 'A' in spite of being given two or more opportunities. Hence, the Committee therefore decided that these cases as per 'Annexure-A' may be recommended for Rejection in view of non-submission of requisite documents as mentioned against each."

25. On perusing the record, it is evident vide letter dated 13th July 2016 that the Respondent classified multiple deficiencies in the application for allotment of alternative plot submitted by the Petitioner on 18th May 2007. On 2nd August 2016, though certain documents were submitted by the Petitioner but it is evident from record that all the required documents were not submitted by the Petitioner. Even after this, some opportunities were given to the Petitioner vide letter dated 6th October 2016 and 9th January 2017, but the Petitioner failed to provide for the deficiencies in his application.

26. Giving a final opportunity to the Petitioner, 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, the details of which were even duly uploaded on the official website of the Respondents. As is evident, the Petitioner even failed to utilise this opportunity to submit the required documents and rectify all deficiencies in his application. Accordingly, it was concluded by the Recommendation Committee that the applicant was not interested to pursue the matter since he did not submit the requisite documents despite two notices and a public notice.

27. 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. The petitioner was granted opportunity at several occasions for submissions of requisite documents and personal hearing for his case being considered under the Scheme through personal notices as well as through public notice. However, the petitioner failed in appearing before the authorities and submitting the requisite documents.

28. 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.

29. 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.

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Therefore, even if, for the sake of argument, the earlier notices are deemed not to be served, the public notice issued by the respondent no. 2 in newspapers in two languages – i.e. English and Hindi, shall be deemed to be a valid service, and accordingly the Petitioner cannot claim the benefit of being unserved.

30. 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 communication no. F.30 (27)/22/2007/L&B/ALT/7810 dated 18th October 2017 does not suffer from any illegality, impropriety or error apparent on the face of record. The petitioner failed to approach the concerned authority with requisite documents for consideration of his application for allotment of alternative plot and nor did he bother to respond to the said notices issued by the concerned authority and hence, his application was rightly rejected after giving him an opportunity of hearing.

31. Accordingly, the instant writ petition is dismissed since this Court does not find any merit in the challenge to the impugned letter.

32. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

NOVEMBER 4, 2022
gs/mg