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

% Judgment delivered on: 17.05.2024

+ W.P.(C) 17338/2022

HARSH KUMAR @ HARISH KUMAR Petitioner

versus

DISTRICT MAGISTRATE NORTH Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. I.S Dahiya, Advocate

For the Respondents : Mr. Rishikesh Kumar, ASC with Ms. Sheenu Priya, Mr. Atik Gill and Mr. Sudhir Kumar Shukla, Advocates

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G M E N T****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. This is a writ petition under Article 226 of the Constitution of India, 1950, seeking *inter alia* the following reliefs:-

“i) Issue a writ of certiorari or any other appropriate writ, order or direction for calling the record of file No. F.33(77) /277 /2003/ L&B/ Alt. / Seniority NO.1553 relating to application for allotment of alternative plot in lieu of acquired land of the petitioner: AND

(ii) Issue a writ of mandamus or any other appropriate writ, order or direction for the respondent to quash the order/



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letter no. F.33(77)/ 277/ 2003/ L&B/ Alt. / 558 dated 21.09.2020, by which application of the petitioner for allotment of alternative plot was illegally rejected;

To issue direction for respondent to issue recommendation letter in favour of petitioner for allotment of alternative plot to DDA at the earliest.

(iii) Award costs of the present petition In favour of the petitioner and against the respondent.”

2. Learned counsel for the petitioner submits that the petitioner is a Bhumidar in Khasra No.64/10 min (1-00) in the Revenue Estate of Village Prahladpur Bangar, Delhi.
3. By the Notification dated 27.10.1999 issued under Section 4 of the Land Acquisition Act, 1894 read with Section 17(1)(a) of the said Act, invoking the emergent provisions, the land of the petitioner along with other land admeasuring a total of 2975 bigha 09 biswa situated at the Revenue Estate of Prahladpur Bangar, Delhi was notified for acquisition.
4. On 03.04.2003 the Notification of declaration under Section 6 of the Land Acquisition Act was also issued and subsequently the Government acquired the said land and took possession. The possession of the said land is stated to have been taken from the petitioner by the appropriate Government/acquiring Authority on 11.05.2000.
5. The compensation of the said acquired land was disbursed/paid to the petitioner on 04.10.2002.
6. In terms of the policy decision of the year 1961 whereby the persons whose lands were compulsorily acquired, were provided with an alternate allotment of land in lieu of such compulsory acquisition. Under the said scheme the petitioner states that he had become entitled to



allotment of an alternate plot of land. The petitioner also submits that on 27.08.2003 the petitioner had submitted an application seeking recommendation of alternate plot of land in his favour to the Office of Land and Building Department, Government of NCT of Delhi. It is stated by the petitioner that in compliance of the order of this Court, a seniority list was prepared by the Office of Land and Building Department wherein the petitioner was figuring at seniority no.1553.

7. The petitioner states that he had moved out of Delhi in the year 2010. Since no response was coming from the respondent no.1, in January 2011 he filed an RTI application in the Office of Land and Building Department to obtain the status of his application. Not being satisfied with the said information, the petitioner had filed an appeal under the RTI Act, 2005. The said information was subsequently sent to the petitioner at his residence at Bimko Motaraj, Gurdaspur Road, Pathankot, District Gurdaspur, Punjab.

8. The petitioner states to have filed an application on 26.04.2011 to the Deputy Secretary, Alternative Branch, Land & Building Department enclosing all documents of his new address. It appears that thereafter the Department continued to send letters/ correspondence/communications to the petitioner's address at Delhi and not at Punjab.

9. It was only after obtaining the impugned order dated 21.09.2020 communicated through the response to the RTI query, the petitioner came to know rejection of his application. It is this order that the petitioner seeks challenge in the present writ petition.

10. This Court has heard the arguments of the learned counsel for the petitioner and perused the documents including the impugned order dated



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21.09.2020.

11. It is apparent from the perusal of the said order that the Recommendation Committee had cancelled/decided not to recommend the case of the petitioner on the ground of non-compliance of the public notices and non submission of requisite documents. It is categorically mentioned in the said impugned order that the said communications were sent to the address of the petitioner at 4/24, East Patel Nagar, New Delhi.

12. It is clear from the aforesaid submissions as also the documents placed on record that the petitioner had already informed the appropriate authority of his change in address. Despite such updation of the change of address, the Competent Authority i.e. SDM Headquarter District North proceeded as if the petitioner is not interested in pursuing the matter and rejected the case of the petitioner merely on the ground that the petitioner neither responded to the notices nor submitted the requisite documents.

13. Keeping in view the aforesaid, it appears that the rejection was erroneous. In any case it is clear that the rejection is not on merits. Even if the observations in the impugned order is taken to be correct on the face of it, it would still not mean that the petitioner's right to be considered on merits gets obviated. The past seniority of the petitioner figuring at Sl. No.1553 of the seniority list would enure to the benefit of the petitioner even today.

14. In that view of the matter, this Court is of the considered opinion that the impugned order dated 21.09.2020 ought to be and is quashed and set aside.

15. The petitioner shall as a consequence, submit all relevant documents as required in accordance with the policy and any other



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document if required and submit the same within a period of four weeks from today. The Recommendation Committee as and when constituted, shall consider the same and proceed in accordance with the rules and regulations and policy of the year 1961 as applicable.

16. It goes without saying that the Recommendation Committee shall consider the application as also give personal hearing to the petitioner and dispose of the application within three months from the date of this order. The notice of hearing be communicated to petitioner in advance regarding date, time and venue.

17. Needless to state that the rejection order shall be communicated to the petitioner within a period of one week from the date of decision taken.

18. In view of the above, the petition is disposed of with no order as to costs.

TUSHAR RAO GEDELA, J

MAY 17, 2024

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