



- * IN THE HIGH COURT OF DELHI AT NEW DELHI**
- % Judgment reserved on : 08 August 2024**
Judgment pronounced on: 04 October 2024
- + W.P.(C) 14097/2009**
- AVTAR SINGH MANKOO** Petitioner
Through: Mr. R. K. Saini & Mr. Ravi Kumar, Advs.
versus
- DELHI DEVELOPMENT AUTHORITY** Respondent
Through: Ms. Shahana Farah & Ms. Sanna Harta, Advs.
- + W.P.(C) 1107/2010**
- SHRI SUNIL WADHAWA** Petitioner
Through: Mr. R. K. Saini & Mr. Ravi Kumar, Advs.
versus
- DELHI DEVELOPMENT AUTHORITY** Respondent
Through: Ms. Shahana Farah & Ms. Sanna Harta, Advs.
- + W.P.(C) 817/2011**
- NARAYAN SINGH BISHT** Petitioner
Through: Mr. R. K. Saini & Mr. Ravi Kumar, Advs.
versus
- DELHI DEVELOPMENT AUTHORITY** Respondent
Through: Ms. Shahana Farah & Ms. Sanna Harta, Advs.
- + W.P.(C) 5977/2012**
- RAJINDER KUMAR BUDHIRAJA** Petitioner



Through: Mr. R. K. Saini & Mr. Ravi
Kumar, Advs.

versus

D.D.A

..... Respondent

Through: Ms. Shahana Farah & Ms.
Sanna Harta, Advs.

+ W.P.(C) 7841/2012 & CM APPL. 19715/2012

SUMAN VIRMANI

..... Petitioner

Through: Mr. R. K. Saini & Mr. Ravi
Kumar, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Ms. Shahana Farah & Ms.
Sanna Harta, Advs.

+ W.P.(C) 1591/2016 & CM APPL. 6889/2016

NARINDER KUMAR

..... Petitioner

Through: Mr. R. K. Saini & Mr. Ravi
Kumar, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Ms. Shahana Farah & Ms.
Sanna Harta, Advs.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This common judgment shall decide the aforementioned writ petitions, which raise a common question of law and facts and can be conveniently disposed of together. The petitioners have preferred these petitions under Article 226 of the Constitution of India, 1950, for issuance of a writ, order or direction to the respondent/Delhi



Development Authority [“DDA”] for allotment of an MIG/LIG flat in Dwarka in the same area/ sector at the old prevailing costs, as per the DDA policy.

FACTUAL BACKGROUND:

2. Succinctly put, the petitioners got registered with the respondent/DDA under the NPRS¹ for allotment of an MIG/LIG flat upon making the requisite registration deposit to the respondent/DDA. Evidently, in the registration form, the petitioners provided two addresses for future correspondence, their residential address as well as their occupational address.

3. For ease of reference, the relevant details with respect to the petitioners herein are reproduced below:

S. NO.	CASE TITLE	DATE OF REGISTRATION	PRIORITY NUMBER	FLAT ALLOTTED
1.	W.P.(C)14097/2009 Avtar Singh Mankoo v. DDA	21.06.1980	33896	MIG flat bearing No. 311, Pocket 2, Sector 19, Dwarka.
2.	W.P.(C)1107/2010 Sunil Wadhwa v. DDA	Not pleaded	37476	LIG flat bearing No. 506 (2nd Floor), Sector 14, Pocket-1, Phase-I, Dwarka
3.	W.P.(C)817/2011 Narayan Singh Bisht v. DDA	28.05.1980	35557	LIG flat bearing No. 858 (2nd Floor), Pocket 2, Sector 14,

¹ New Pattern Registration Scheme, 1979



				Dwarka
4.	W.P.(C)5977/2012 Rajinder Kumar Budhiraja v. DDA	22.09.1979	31959	MIG flat No. 230, 1st Floor, Sector 17, Pocket - A, Phase II, Dwarka
5.	W.P.(C) 7841/2012 Suman Virmani v. DDA	11.03.1980	31590	MIG flat bearing No. 248 (3rd floor), Pocket-B, Sector-13, Dwarka
6.	W.P.(C) 1591/2016 Narinder Kumar v. DDA	01.05.1980	35828	MIG flat No. 309, Ground Floor, Phase-2, Pocket-14, Dwarka

4. The petitioners assert that the allotment of flats under the NPRS 1979 was progressing in a protracted manner, as apparently there were a large number of registrants in comparison to the number of flats available for allotment under the said scheme; and in the interregnum, they relocated to their new residential addresses respectively but their occupational addresses remained unchanged. The petitioners being the legal heirs of the original registrants, subrogated to the interests of the original registrants and applied for mutation of allotment in their favour.

5. It is claimed that the respective petitioners made several inquiries regarding the status of their allotment and although they were unofficially told that they had been allotted flats in the Dwarka



zone, however, since the allotment cum demand letters sent at their residential addresses remained unserved, their respective allotments were cancelled due to non-payment as per the terms and conditions of the allotment letter. The petitioners claim that they never received any allotment cum demand letters. Consequently, the petitioners made several representations to the respondent/DDA officials, seeking a remedial measure in the form of a draw for the allotment of an alternative flat. However, their request was rejected.

6. It is pertinent to note here that the facts leading to the filing of the present petitions as well as the respective reliefs sought are similar in all the above-captioned matters except that in W.P.(C) 1591/2016, when the petitioner, being the legal heir of the original registrant, got knowledge of the fact that his predecessor in interest had been allotted a flat in the Dwarka zone, the respondent/DDA informed the petitioner that based on the documents submitted, the registration standing in the name of the predecessor in interest namely, Shri Hans Raj, had been mutated in the petitioner's name, but clarified that the transfer was solely for the purpose of a refund as the said scheme had been closed. Hence, these writ petitions.

LEGAL SUBMISSIONS ADVANCED AT THE BAR:

7. Learned counsel for the petitioners submitted that they were declared successful in the allotment of a specific flat in the Dwarka zone. However, the respondent/DDA failed to either inform the petitioners about the said allotment or to ensure the delivery or re-delivery of the demand-cum-allotment letter to the petitioners' occupational address, besides failing to effect mutation in the favour



of the petitioners in the applicable cases. Further, the petitioners contend that it was the respondent/DDA's obligation to send the communication to the correct addresses as available in their records. Despite this failure, the respondent/DDA has refused to take remedial action, such as conducting a draw lots to allot an alternative flat, which action is contrary to the settled principles and judgments of this Court in decided cases having similar issues, upon which this Court delve upon later in this judgment.

8. Learned counsel for the respondent/DDA submitted that the petitioners' claim is barred by inordinate delay and laches. Relying upon the Supreme Court's decision in **Banda Development Authority v. Moti Lal Agarwal**² and **Municipal Corporation of Greater Bombay v. Industrial Development Investment Co.**³, it is urged that courts do not entertain petitions filed after unreasonable delays, as it prejudices settled rights. Additionally, it is urged that the decisions in **Shri Prakash Chand Kapoor v. Union of India**⁴ and **Chander Bose v. Union of India**⁵ reinforce that unexplained delays or failure to act diligently disqualify petitioners from seeking any relief. It is contended that the petitioners failure to approach the court in a timely manner, without a valid explanation, precludes any relief being granted. Learned counsel has further relied upon the decisions in **Moon Mills Ltd. v. Industrial Courts**⁶, **S.S. Balu v. State of**

² (2011) 5 SCC 394

³ JT 1996 (8) 16

⁴ 2007 SCC OnLine Del 326

⁵ 2003 SCC OnLine Del 967

⁶ AIR 1967 SC 1450



Kerala⁷ and **State of M.P. v. Nandlal**⁸ to substantiate her arguments.

9. It is further urged by the learned counsel for the respondent/DDA that the petitioners' claim of non-receipt of the Demand-cum-Allotment letter is unfounded as the address provided by the petitioner at the time of registration was used for correspondence, and any subsequent change of address was not communicated to the respondent/DDA. It is submitted that the "Wrong Address Policy," outlined in the respondent/DDA's circular dated 02.10.2013 is inapplicable in this case due to the petitioner's failure to inform the respondent/DDA of their relocation, in W.P.(C) 7841/2012. Reliance has been placed on **Madan & Co. v. Wazir Jaivir Chand**⁹, where the Supreme Court held that if a letter is sent to the correct address but remains unserved, the fault lies with the addressee, and such communication is deemed to be served. Further, it is submitted that this Court in **M/s Sewa International Fashion v. Meenakshi Anand**¹⁰ reaffirmed that once notices are sent to the correct address via registered post, they are considered duly served even if returned undelivered. Hence, it is asserted on behalf of the respondent/DDA that it fulfilled its obligation by sending notices to the petitioners registered addresses, and any failure to receive the letter was due to the petitioners own negligence.

10. Lastly, it is vehemently urged that the petitioners' claim is untenable as the NPRS, 1979, under which the allotment was

⁷ (2009) 2 SCC 479

⁸ AIR 1987 SC 251

⁹ (1989) 1 SCC 264

¹⁰ (2012) ILR II Delhi 607



originally made, no longer exists. The scheme was closed after due diligence, including public notices inviting any remaining applicants to present their cases, and refunds were issued accordingly. Accordingly, the petitioners' demand for allotment under the now-defunct scheme, therefore, holds no merit. In support, learned counsel for the respondent/DDA referred to **Krishan Gopal Bakshi v. DDA**¹¹, where this Court held that once a scheme is closed, claims under it cannot be entertained. Furthermore, it is urged that as per Section 43(2) of the DDA Act, 1957, the demand-cum-allotment letter was duly served at the last known address, fulfilling the statutory requirement of communication. Learned counsel also contended that the petitioners' right is contractual, not statutory, and thus not maintainable under writ jurisdiction. Reliance has been placed on the case of **Kulchhinder Singh v. Hardayal Singh Brar**¹² wherein the Supreme Court has held that writs under Article 226 of the Constitution of India cannot be used to enforce contractual obligations, as such remedies pertain to private law and are subject to civil suits for damages or specific performance. Consequently, the learned counsel for respondent/DDA argued that the petitioner should have sought recourse through a civil suit, as this matter involves a breach of contract rather than the enforcement of a public duty or statutory obligation.

11. In rebuttal, the learned counsel for the petitioner relied upon on decisions of this Court in the cases of **Dharam Chand v. Delhi**

¹¹ 2018 SCC OnLine Del 8162

¹² (1976) 3 SCC 828



Development Authority¹³, where the DDA had sent the demand letter to the occupational address, as well as **Raghubir Singh Arora v. Delhi Development Authority**¹⁴, where the respondent/DDA's failure to send the demand letter to the correct occupational address resulted in judicial intervention. Furthermore, reliance has been placed upon **Sudesh Kapoor v. DDA**¹⁵, wherein this Court ruled that DDA was obligated to send demand letters to all available addresses, and the failure to do so warranted remedial action; and further reliance is placed on the decision in **Thakur Das v. DDA**¹⁶, wherein this Court held that the DDA's cancellation of an allotment without sending the demand letter to the occupational address was unjust. Other decisions relied upon include **Bhagwan Dass v. DDA**¹⁷, where the DDA's contradictory stands regarding the delivery of demand letters led this Court to rule in favour of the petitioner, and the registrant was allotted a flat.

ANALYSIS & DECISION

12. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar. I have also perused the relevant record of the case.

13. At the outset, the issues that have been raised in these petitions are squarely covered by several judicial pronouncements of this Court as well as of the Supreme Court. It is now well ordained in law that the DDA has an obligation to serve its notices, *viz.* demand cum

¹³ WP(C) No. 5848/2007

¹⁴ WP(C) No. 17697/2006

¹⁵ 2007 SCC OnLine Del 829

¹⁶ 2007 SCC OnLine Del 606

¹⁷ 2024 SCC OnLine Del 1405



allotment letters, at all the addresses of an applicant which are available with them on the record. It is also well-settled that the cancellation of an allotment without issuing a show cause notice or notifying the allottee/petitioner at the alternate address is a wrong and incomplete exercise of the power of the DDA, besides being arbitrary in nature.

14. Reverting to the instant matters, first things first, on the plea of delay and laches in filing the writ petitions which should be outrightly rejected, reference can be had to decision in the case of **Shankara Co-op Housing Society Ltd. v. M. Prabhakar & Ors.**¹⁸ wherein it was observed as under:-

"53.....(1) there is no inviolable rule of law that whenever there is a delay, the court must necessarily refuse to entertain the petition; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts. (2) The principle on which the court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because court should not harm innocent parties if their rights had emerged by the delay on the part of the petitioners. (3) The satisfactory way of explaining delay in making an application under Article 226 is for the petitioner to show that he had been seeking relief elsewhere in a manner provided by law. If he runs after a remedy not provided in the Statute or the statutory rules, it is not desirable for the High Court to condone the delay. It is immaterial what the petitioner chooses to believe in regard to the remedy. (4) No hard and fast rule, can be laid down in this regard. Every case shall have to be decided on its own facts.
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¹⁸ AIR 2011 SC 2161



15. Relying on the aforesaid dictum of law, this Court in the case of **DDA v. Mahinder Pal Sikri**¹⁹ wherein a similar issue was raised regarding the non-service of notice at the alternative address provided by the various applicants as also on the issue of delay and laches, it was observed as under:-

“13. Considering the facts of the present cases, it is claimed, and the DDA does not contest, that all writ petitions, with one exception, were filed in well under a year from the date of knowledge of the allotment letter, and even in LPA 302/2013, the period was 1 year and 5 months. Such periods do not amount to such inordinate delay as to bar the petitioner's legal remedy under Article 226. In fact, all the applicants had applied under the NPRS, 1979, and all allotment-cum-demand letters were issued at least after a period of one decade (as in LPA 302/2013), or as is the norm, after approximately two decades in the other matters presently in appeal. **Given such a delay in processing the applications, and subsequently, either sending the letter to the wrong address, or not to all available addresses, the equities do not demand that the petitioner's valuable rights to the allotted plots can be defeated, especially when the time lag between the knowledge of allotment and the filing of the writ petitions is not so long as to state that the petitioners were being indolent. Rather, each petitioner discovered the fact of the allotment letter through his/her own accord, and subsequently, within a reasonable period, approached this Court for relief under Article 226. In such cases, this Court is the opinion that its discretion to bar the claim on account of delay or laches, i.e. to say that the petitioners' were negligent in pursuing their legal remedies, is not merited, and thus, the orders of the learned Single Judges on this aspect are not liable to be interfered with. This court is conscious of the fact that given the span of over two decades, - sometimes even more than three decades for an application to "mature" into an allotment, it would be unreasonable for the Court to impute negligence or deliberate inaction, since the registrants cannot be expected to have a constant or permanent address. These registrants were not possessing flats or residential accommodation,**

¹⁹ 2013 SCC OnLine Del 4803



which impelled them to apply DDA; it is too much to expect them to live more than 20-30 years in one place.”

16. Incidentally, this Court in a recently decided case titled **Sudhir Kumar Dhingra v. Delhi Development Authority**²⁰ had an occasion to consider a case where the allotment of an MIG flat under the same scheme i.e. NPRS, 1979 had been cancelled, wherein the demand cum allotment letter which was issued at the residential address of the applicant was returned ‘undelivered’ and no notice was sent to the occupational address which was available in the record, and thus, cancellation of allotment of the flat was held to be bad in law.

13. Thus, without further ado, in view of the foregoing discussions, the present writ petitions are allowed and the following directions are passed:

In W.P.(C) No.14097/2009

(a) a writ of *mandamus* is passed, thereby commanding the respondent/DDA to hold a mini draw within eight weeks and allot the MIG flat to the petitioner in the same zone i.e. Dwarka Zone if available, or the nearest zone, at the cost of the flat prevalent as on the date of filing the petition on 22.12.2009;

(b) In the alternative, in case it is not possible to allot any flat to the petitioner for the cessation of the scheme, the respondent/DDA shall pay a compensation equivalent to the cost of flat as on the date of filing the petition on 22.12.2009 within eight weeks after deducting the

²⁰ W.P.(C) No.3001/2016 decided on 26.09.2024



amount of the initial deposit with interest @ 9% per annum, failing which it shall be liable to pay the same with interest at the rate of 9% per annum from the date this order till realisation;

In W.P.(C) No.1107/2010

(a) a writ of *mandamus* is passed, thereby commanding the respondent/DDA to hold a mini draw within eight weeks and allot the LIG flat to the petitioner in the same zone i.e. Dwarka Zone if available, or the nearest zone, at the cost of the flat prevalent as on the date of filing the petition on 23.02.2010;

(b) In the alternative, in case it is not possible to allot any flat to the petitioner for the cessation of the scheme, the respondent/DDA shall pay a compensation equivalent to the cost of flat as on the date of filing the petition on 23.02.2010 within eight weeks after deducting the amount of the initial deposit with interest @ 9% per annum, failing which it shall be liable to pay the same with interest at the rate of 9% per annum from the date this order till realisation;

In W.P.(C) No.817/2011

(a) a writ of *mandamus* is passed, thereby commanding the respondent/DDA to hold a mini draw within eight weeks and allot the LIG flat to the petitioner in the same zone i.e. Dwarka Zone if available, or the



nearest zone, at the cost of the flat prevalent as on the date of filing the petition on 08.02.2011;

(b) In the alternative, in case it is not possible to allot any flat to the petitioner for the cessation of the scheme, the respondent/DDA shall pay a compensation equivalent to the cost of flat as on the date of filing of the petition on 08.02.2011 within eight weeks after deducting the amount of the initial deposit with interest @ 9% per annum, failing which it shall be liable to pay the same with interest at the rate of 9% per annum from the date this order till realisation;

In W.P.(C) No.5977/2012

(a) a writ of *mandamus* is passed, thereby commanding the respondent/DDA to hold a mini draw within eight weeks and allot the MIG flat to the petitioner in the same zone i.e. Dwarka Zone if available, or the nearest zone, at the cost of the flat prevalent as on the date of filing the petition on 21.09.2012;

(b) In the alternative, in case it is not possible to allot any flat to the petitioner for the cessation of the scheme, the respondent/DDA shall pay a compensation equivalent to the cost of flat as on date of filing the petition on 21.09.2012 within eight weeks after deducting the amount of the initial deposit with interest @ 9% per annum, failing which it shall be liable to pay the same



with interest at the rate of 9% per annum from the date this order till realisation;

In W.P.(C) No.7841/2012

(a) a writ of *mandamus* is passed, thereby commanding the respondent/DDA to hold a mini draw within eight weeks and allot the MIG flat to the petitioner in the same zone i.e. Dwarka Zone if available, or the nearest zone, at the cost of the flat prevalent as on the date of filing the petition on 07.12.2012;

(b) In the alternative, in case it is not possible to allot any flat to the petitioner for the cessation of the scheme, the respondent/DDA shall pay a compensation equivalent to the cost of flat as on the date of filing the petition on 07.12.2012 within eight weeks after deducting the amount of the initial deposit with interest @ 9% per annum, failing which it shall be liable to pay the same with interest at the rate of 9% per annum from the date this order till realisation.

In W.P.(C) No.1591/2016

(a) a writ of *mandamus* directing the respondent/DDA to forthwith carry out the transfer of allotment to the deceased father of the petitioner in his favour;

(b) a writ of *mandamus* is passed, thereby commanding the respondent/DDA to hold a mini draw within eight weeks and allot the MIG flat to the petitioner in the same zone i.e. Dwarka Zone if available, or the



nearest zone, at the cost of the flat prevalent as on the date of filing the petition on 24.02.2016;

(c) In the alternative, in case it is not possible to allot any flat to the petitioner for the cessation of the scheme, the respondent/DDA shall pay a compensation equivalent to the cost of flat as on the date of filing the petition on 24.02.2016 within eight weeks after deducting the amount of the initial deposit with interest @ 9% per annum, failing which it shall be liable to pay the same with interest at the rate of 9% per annum from the date this order till realisation.

17. The present writ petitions are allowed in the aforesaid terms.

DHARMESH SHARMA, J.

OCTOBER 04, 2024

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