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

% ***Date of Decision: 04th February, 2025***

+ W.P.(C) 7133/2022, CM APPL. 21888/2022, CM APPL. 5427/2024,
CM APPL. 5428/2024 & CM APPL. 4853/2025

RAM LAL GAMBHIRPetitioner

Through: Mr. Animesh Kumar, Mr. Nishant
Kumar, Dr. Sumit Kumar, Ms.
Aprajita & Mr. Shikhar Khanna,
Advocates

versus

DELHI DEVELOPMENT AUTHORITY AND ORSRespondent

Through: Ms. Prabhsahay Kaur, Standing
Counsel, Ms. Shahana Farah, Panel
Counsel with Ms. Varsha Dhami, Ms.
Amruta Padhi, Mrk. Bir Inder Singh
Gurm, Advocates & Mr. Vikash
Gaurav, Assistant Director, DDA

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

CM APPL. 5428/2024 (exemption)

Exemption allowed, subject to all just exceptions.

**W.P.(C) 7133/2022, CM APPL. 21888/2022, CM APPL. 5427/2024 &
CM APPL. 4853/2025**

1. The point involved in the present writ petition is very short and precise.
2. Petitioner, merely, seeks change in floor of the flat allotted to him



under the scheme titled as *Evictees of Ashoka Pahari, Faiz Road*.

3. Admittedly, the petitioner was allotted Flat No. 48, Ashoka Pahari, Faiz Road, Karol Bagh, New Delhi under LIG Category vide demand-cum-allotment letter 13.04.2015.

4. The entire payment was made by the petitioner with respect to the aforesaid flat, which is situated at third floor.

5. According to petitioner, he has been a heart-patient since 2013 and, therefore, as per the policy of DDA and as per the information available on website of DDA, he made a request for change of floor from third floor to first floor within the same society. He also along with his such request submitted medical documents.

6. The petitioner is aggrieved by the fact that despite having a prescription issued by a government hospital i.e. Deep Chand Bandhu Hospital, Ashok Vihar, Delhi, being run by Govt. of NCT of Delhi whereby it was categorically observed that he was suffering from a cardiac problem and it was not advisable for him to climb stairs in view of his cardiac problem, his request has been turned down.

7. It is contended that nothing was considered and his representation has been rejected in a cryptic manner, without even assigning any reason.

8. Such rejection is dated 20.06.2016 and, undoubtedly, such order does not contain any reason.

9. By virtue of the aforesaid one-line order, it has been merely informed to the petitioner that his request for change of floor had not been acceded to.

10. There is no dispute that there is policy for change of floors.

11. Even as per counter affidavit of DDA, subject to availability of flats and on production of certificate from Govt. Hospital/Recognised Hospital



which establishes that either the allottee or any member of his family suffers from blindness or physical handicap of an orthopaedic nature where lower limbs are affected, or rheumatoid arthritis or serious heart conduct or the allottee or any member of his family as aforesaid is more than 70, the change is permissible, though such discretion vests with Chairman, DDA.

12. Learned counsel for respondent divulges that since the petitioner had made a similar request in the year 2021 as well, they have re-considered the entire matter and as per decision taken on 30.01.2025, his such request has been rejected, again, for absence of a valid medical record.

13. Fact, however, remains that DDA should have, at least, apprised the Court that they were, again, considering any such representation made by the petitioner.

14. It was obligatory since the instant writ petition was pending adjudication.

15. This Court is conscious of order dated 10.02.2017 passed by this Court in *W.P. (C) No. 1157/2017 titled as Beer Singh Vs. DDA* wherein also there was a request for change of flat in the same very locality and the petitioner had claimed that he was suffering from serious cardiac problem and his wife was also suffering from arthritis and his request was rejected without disclosing any reason and in the similar backdrop, such order was set aside while directing the respondent-DDA to re-consider the case of petitioner in accordance with its policy and to pass a reasoned order.

16. According to learned counsel for petitioner, in order to escape the aforesaid binding legal precedent, the request seems to have been considered, again, in a clandestine manner without even affording him any opportunity and such request has been rejected so that it can now be



demonstrated before this Court that the rejection is not without any reason.

17. This Court, to some extents, agrees to such submission made by the petitioner.

18. As noted already, this Court was kept in dark and it was never apprised to the Court that DDA intended to consider the matter again.

19. Moreover, the aforesaid representation was of the year 2021 and it is not explained as to why all of a sudden, after four years, DDA has woken up from its slumber and has considered the aforesaid representation, in a haste and hurried manner.

20. It also seems that representation has been rejected on the premise that '*medical prescription*' even if the same is issued by a Government Hospital would not be sufficient in itself and any such person, making request for change of floor, has to rather come up with a '*certificate*'.

21. This goes on to suggest that the approach of DDA is nothing but rigid and hyper-technical. DDA has, in self-styled manner, attempted to create an artificial and imaginary distinction between the two terms – medical prescription and certificate.

22. Need we emphasise, contents, definitely, matter more than a mere caption.

23. Such prescription, given by a Government Hospital, could not have been overlooked and sidelined in such a fanciful and whimsical manner, when DDA does not even seem to have a specific format for any such medical certificate.

24. Be that as it may, keeping in mind the overall facts of the case and keeping in mind the fact that the medical prescription should not have been disregarded in the manner it has been, the present writ petition is disposed of



with the following directions: -

- i. *The petitioner would get himself examined in AIIMS, Delhi where he is, reportedly, getting treatment already, with respect to his heart ailment.*
- ii. *Such examination may take place, preferably, within a period of 15 days from today.*
- iii. *AIIMS would examine the petitioner in terms of policy of DDA and would give opinion whether his heart condition is such, which entitles him to shift to lower floor.*
- iv. *In case, AIIMS issue any such certificate, such certificate alongwith representation and record, if any be sent by petitioner to DDA within a period of 10 days.*
- v. *DDA shall consider the same, without being influenced by the decision which it had taken earlier in 2016 or for that matter which it took on 30.01.2025.*
- vi. *It is expected that request/representation of the petitioner is considered with due compassion, though, strictly in terms of the policy in vogue.*
- vii. *Such decision would be taken by DDA within a period of eight weeks from the receipt of representation/medical certificate.*
- viii. *Needless to say, in case petitioner is aggrieved by the outcome of his such representation, he would be permitted to knock the door of the Court, again.*
- ix. *Admittedly, there are seven flats available on first floor which are to be e-auctioned by DDA very shortly. In order to protect the interest of the petitioner, let any one such flat be kept aside*



till the above representation is decided. This is to ensure that if the representation of the petitioner meets with any success, such first floor flat can be given to him by DDA immediately, in place of his third floor flat.

25. A copy of this order be also sent to Director, AIIMS, Delhi for his due information and also to ensure that there is requisite medical examination of the petitioner, without any delay.

26. Writ petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

FEBRUARY 4, 2025/dr