



2025:DHC:10450



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

% *Date of Decision: 19th November, 2025*

+ W.P.(C) 9808/2019

MRS. KIRAN GAMBHIRPetitioner

Through: Mr. Rajesh Pathak, Advocate.

versus

DELHI DEVELOPMENT AUTHORITYRespondent

Through: Ms. Shobhana Takiar, Standing
Counsel with Mr. Shivam Takiar, Mr. Prateek Dhir
and Mr. Kuljeet Singh, Advocates for DDA.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking direction to DDA to transfer/mutate the Registration No. 45 of New Pattern Registration Scheme of 1979 ('1979 Scheme') standing in the name of Lt. Shri Jagdish Chander Gambhir in favour of the Petitioner and include the name of the Petitioner in the draw of lots and consequently allot an MIG Flat as per her entitlement, calculating the cost of flat in terms of circulars/office orders dated 25.02.2005 and 06.06.2006. Quashing of Speaking Order dated 22.07.2019 is also sought, to the aforesaid extent.

2. Case of the Petitioner as pleaded in the writ petition is that Lt. Shri Jagdish Chander Gambhir got himself registered under the 1979 Scheme for



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allotment of MIG Flat and deposited a sum of Rs.4,500/- with DDA vide Registration No. 45 on 08.09.1979 and was allotted Priority No. 32033. On 25.02.2002, Jagdish Chander learnt that applicants upto Priority No. 32416 had been allotted flats but his name was not included in the draw of lots and made a representation but to no avail. Representations of Jagdish Chander was forwarded to senior officials including Commissioner (Housing) and he was informed that the matter was under investigation. When the internal mechanism of DDA did not redress the grievance of the Petitioner, he filed a writ petition in this Court being W.P.(C) 7566/2012, which was disposed of on 05.12.2012 directing the Petitioner to make a detailed representation to DDA, which the Petitioner did on 17.12.2012. As the representation was not decided, Petitioner filed CONT. CAS (C) No. 293/2013 and on 12.04.2013, DDA informed the Contempt Court that representation was decided and Commissioner (Housing) had approved allotment of flat under 'Missing Priority Policy'. Copy of office notings recording this fact were shown to the Court and accordingly, contempt petition was disposed of.

3. It is stated that no allotment was not made even after this assurance and on 05.09.2014, Jagdish Chander was informed that files of the Housing Department were seized by CBI. Jagdish Chander expired on 11.07.2017 leaving behind his wife Smt. Usha Gambhir and the Petitioner, who is the widow of his deceased son Lt. Kapil Gambhir, as his legal heirs. Usha Gambhir relinquished her right in favour of the Petitioner and Petitioner filed an application on 08.10.2018 requesting DDA to transfer the registration number in her name along with all requisite documents. For a long time, there was no response and finally Petitioner received the impugned order dated 22.07.2019, acknowledging that Jagdish Chander's



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case was approved for allotment under 'Missing Priority Policy' and Petitioner's case can be considered for allotment, subject to costing of the flat under existing circular dated 13.10.2011, in the next mini draw.

4. Learned counsel for the Petitioner submits that despite allotting Priority No. 32033 to Jagdish Chander, DDA failed to allot the MIG Flat and proceeded to allot flats to applicants with lower Priority numbers. From 2009 to 2012, Jagdish Chander made several representations and visits to the office of DDA ventilating his grievance but to no avail and was thus compelled to file a petition in this Court. On 05.12.2002, Court directed DDA to decide the representation within 8 weeks but the representation was decided only after the contempt petition was filed. Despite informing the Contempt Court on 12.04.2013 that Commissioner (Housing) had approved allotment of flat, no action was taken and unfortunately Jagdish Chander expired on 11.07.2017, awaiting allotment. Thereafter, Petitioner who is the widow of deceased son of Jagdish Chander has been running from pillar to post but till date no allotment has been made and the *mala fide* of DDA is evident from the Speaking Order dated 22.07.2019, whereby DDA seeks to calculate the cost of the flat under circular dated 13.10.2011, contrary to its own circulars dated 25.02.2005 and 06.06.2006 requiring costing to be carried out at the old rates. In this backdrop, Petitioner seeks quashing of the Speaking Order and allotment of flat at a cost calculated on the basis of DDA's earlier circulars.

5. Ms. Takiar, learned counsel for DDA submits that the petition is not maintainable on ground of delay and laches. Moreover, if the approval of allotment was given by Commissioner (Housing) on 15.03.2013, costing has to be worked out in accordance with circular dated 13.10.2011, which



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provides that cost of the flat will be the standard cost of the flats based on the plinth area rate and land rates as prevalent on the date of issue of demand-cum-allotment letter. Therefore, as and when the demand-cum-allotment letter will be issued, the rates prevalent on the date of issue of the demand-cum-allotment letter will determine the cost of the flat.

6. Having heard counsels for the parties, the only question that arises before this Court is the cost of the MIG Flat which is to be allotted to the Petitioner under the aforementioned registration and priority numbers. In the so far as the objection of delay and laches is concerned, the narrative above, shows that the Petitioner and before her Jagdish Chander have diligently followed up their case and it is DDA which is responsible for inaction/delayed action and the objection is thus rejected. It is not in dispute that Jagdish Chander had registered under 1979 Scheme and was not allotted the flat *albeit* those lower in priority were allotted and on learning this fact, Jagdish Chander made several representations and visits to DDA but there was no positive response, compelling him to file W.P.(C) 7566/2012 before this Court in which an order was passed on 05.12.2012 directing the Petitioner to make detailed representation to DDA and DDA was directed to dispose of the representation within 8 weeks. However, DDA did not comply with the order and Petitioner filed CONT. CAS (C) No. 293/2013 in which the Court was informed that Commissioner (Housing) had approved allotment of flat under 'Missing Priority Policy' and office noting dated 15.03.2013 reflecting this position was shown to the Court.

7. Jagdish Chander unfortunately expired on 11.07.2017 without enjoying the fruits of his labour and struggle over a decade. Petitioner, who stepped into his shoes as a legal heir, applied for transfer of registration and



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priority number on 08.10.2018 with all requisite documents, only to be given a Speaking Order dated 22.07.2019, informing her that cost of the flat will be calculated as per circular dated 13.10.2011. In my view, this matter is a classic case of victimization and harassment of Late Jagdish Chander as also the Petitioner. The error of not allotting the flat to Jagdish Chander at the initial stage despite being higher in priority was compounded by inaction of DDA in not making timely allotment despite approval on 15.03.2013. The question is whether DDA can be permitted to calculate the cost of flat as per circular dated 13.10.2011, which provides for calculation on the basis of rates prevalent on the date of issue of demand-cum-allotment letter.

8. This question can only be answered in the negative for two reasons. Firstly, DDA cannot be permitted to take advantage of its own wrong. It is the inaction of DDA which has led to unjustified and unexplained inordinate delay in allotment and cannot be permitted to allot the flat on rates prevalent on the date of issue of demand-cum-allotment letter. Secondly, this issue is even otherwise no longer *res integra*. Division Benches of this Court have consistently held that cost of flat payable by successful writ Petitioner would be the one prevalent on the date the writ petition is filed on the principle that clock in terms of the price to be paid stops at the time of approaching the Court for appropriate remedy and the matter at that point rests with the Court and not in the hands of the writ Petitioner. In this context, I may refer to passages from the judgment of the Division Bench in ***Surender Singh Deswal v. Delhi Development Authority, 2024 SCC OnLine Del 2757***, where references have been made to earlier judgments, hereunder:-

“26. In our opinion, in the aforementioned facts where all wrong doing lies at the door-step of DDA, the challenge of the Appellants to the impugned directions is well merited and this issue has been well-settled by several



judgments of this Court. The Division Bench in *Mahinder Pal Sikri (supra)* categorically held that the price for allotment of flat payable by a successful writ petitioner, would be the one prevalent on the date, the writ petition is filed. The relevant paragraphs of the judgment read as under:

“2. The facts giving rise to these orders are that the writ petitioners (the Respondents in the present appeals, but referred to collectively as the “writ petitioners”) before the learned Single Judges had registered for allotment of MIG flats under the New Pattern Registration Scheme, 1979 (“NPRS”). Each writ petitioner was allotted a flat by a demand-cum-allotment letter issued by the DDA, but in each case, the letter was returned to the DDA undelivered. Subsequently, each writ petitioner became aware of the allotment, either at a public hearing in the office of the DDA or through the internet, and requested the DDA to allot the flat in their favour. The DDA, however, rejected such applications on the ground that since the letter was sent to the residential address-but not received by the allottee-, and in each case, a public notice was released by the DDA, the cancellation of the allotment was legal and not liable to be interfered with.

...

5. The learned Single Judge, through an order dated 30.10.2012 allowed the writ petition, and subsequently, by an order dated 12.04.2013 in pursuance of an application filed by Mrs. Chawla, modified the earlier order to the extent that the DDA be directed to allot the alternative flat to Mrs. Chalwa at the cost of February, 2010, when the writ was filed, as opposed to the circular dated 13.10.2011.

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18. Equally, the holdings in the various decisions on the appeal present that that the payment for the plot will be made as per the price on the date of filing the writ, and not as per the Circular dated 13.10.2011, cannot be faulted, given the established principle to the effect that the clock in terms of the price to be paid stops at the time of approaching the Court for the appropriate remedy, and the matter at that point rests with the Court and not in the hands of the writ petitioners.”

(Emphasis Supplied)

27. To the same effect, the Division Bench in *Nanak Chand v. Delhi Development Authority* in LPA Nos. 193/2014 and 298/2014, decided on 21st August, 2014, while setting aside the direction of the learned Single Judge fixing the date of passing of the judgment as the cut-off date on the price of the flat, held that such a direction was contrary to law. The Division Bench held that the writ petitioner has an unqualified legal right for allotment of flat on the price prevailing as on the date of filing of the



writ petition. The Special Leave Petitions filed by DDA against the said judgment stands dismissed by the Supreme Court of India vide order dated 6th February, 2015. The relevant portion read as under:

“1. The appellant, Nanak Chand, has impugned the judgment and order of the learned Single Judge passed on 17.12.2013, which, by a writ of mandamus directed the DDA to “allot a flat of equivalent size preferably in the same area, i.e. Dwarka, New Delhi, at the price prevalent on the date of the order within a period of twelve (12) weeks”.

...

2. The appellant contends that the difference between the price prevalent on the date of filing the writ petition (20.12.2012) and the date of its disposal (17.12.2013) is substantial. He submits that the price has increased by Rs. 7-8 lakhs, hence, he would be irretrievably prejudiced if he is asked to pay the higher price prevalent on the date of the impugned order. He contends that the learned Single Judge, in an earlier case, had directed a flat to be allotted to the petitioner at the price prevalent on the date of filing of the writ petition. He relied upon a judgment of this Court in LPA No. 743/2013 titled Delhi Development Authority v. Mahinder Pal Sikri (Deceased) Through LRs decided on 28.11.2013 and on another judgment in LPA No. 628/2013 titled Dev Raj v. Delhi Development Authority decided on 19.2.2014. Both the judgments held, in similar circumstances, that the flat should be allotted at the price obtaining on the date the writ petition had been filed.

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7. We notice that the learned Single Judge had fixed the date of passing of the impugned order as the cut-off date on which the price prevalent would be applicable. This was premised on the counsel for the petitioner offering his no objection in accepting the allotment on that basis. We also note that the query was put by the Court, but the question remains: would it be fair to put a query to the petitioner's counsel which could compromise the petitioner's legal rights? This court is of the view that where the allotment was delayed on account of fault of DDA as has been held in Mahinder Pal Sikri (supra), Dev Raj (supra) and Ms. Prem Bhatnagar (supra) the applicant/petitioner cannot be burdened with the cost prevailing on the day when the writ petition was disposed off. Instead the price payable ought to be one as on the day the doors of the court were knocked at.

8. The same principle would be applicable to the present appellant. On the application of principle and analogy of Mahinder Pal Sikri (supra), Dev Raj (supra) and Ms. Prem Bhatnagar (supra) the petitioner's right is established. This right which was prejudiced, was



sought to be enforced through a writ of mandamus. Such legal right cannot be modified by a concession of counsel. The petitioner would be entitled to seek the enforcement of his complete legal right. The learned Single Judge fell into an error in fixing the price prevalent on the date of the impugned order only on the concession of the petitioner's counsel. The courts would exercise caution and see that when the legal right is unqualified it ought not to be qualified or lessened because of a concession by the litigant because the grant or enforcement of the legal right is not contingent upon the petitioner's concession or her settling for something less. A litigant would ordinarily not make a concession unless he/she feels compelled to. Where a petitioner knows that his right against the State is absolute he would never forgo or settle for anything lesser. The Courts would, therefore, enforce a petitioner's complete legal rights in full measure without any unwarranted mitigation.

9. The appellant is entitled to be treated as per the consistent view taken by this Court. The price for allotment of the flat would be the one prevalent on the date the writ petition was filed. The time taken in adjudication of the writ petition cannot be attributed to the petitioner thus causing him to pay higher cost of the flat, as far as a petitioner is concerned the clock stops ticking the day he filed the writ petition.

10. In view of the aforesaid, this Court directs that the appellant Nanak Chand be allotted a flat of equivalent size at the price prevalent on the date he filed the writ petition. The LPA No. 193/2014 is allowed. Logically, therefore, DDA's LPA No. 238/2014 which impugns the order against the Nanak Chand's established legal right, is rejected. No order as to costs.

(Emphasis Supplied)

28. Similarly, the Division Bench in *Dev Raj v. Delhi Development Authority* in LPA No. 625/2013 decided on 19th February, 2014, while dealing with the Special Housing Registration Scheme known as Ambedkar Awas Yojna, while setting aside the order of the learned Single Judge directed DDA to allot a flat at the rates applicable on the date of filing of the writ petition. The relevant paras read as under:

“1. The present Letters Patent Appeal is filed against order dated 11.07.2013 dismissing the writ petition of the appellant. The writ petition was filed seeking a writ of certiorari for quashing the action of respondent/DDA in cancelling the allotment of a flat to the petitioner and in declining to restore and make alternative allotment at old rate as per policy. Other connected reliefs were also sought.



...

2. The appellant states that on 29.12.1989 registered with DDA under its Special Housing Registration Scheme for SC/ST known as Ambedkar Awas Yojna for allotment of an MIG flat. Registration fee of Rs. 12000 was deposited.

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15. In view of the above we set aside the impugned order of the learned Single Judge and allow the appeal. We direct the DDA to allot a similar flat in the same area/zone at the rates as applicable on the date the appellant filed the writ petition.

(Emphasis Supplied)

29. The aforesaid judgments of the Division Bench have consistently held that the writ petitioner who has succeeded in the writ petition is entitled to allotment of flat at the price prevailing on the date of filing of the writ petition. The legal principle forming the basis of the said direction has been explained in the judgment of Nanak Chand (supra) and is well founded in law. In the facts of this case, as noted above the delay in the offer of allotment of the flat from 2009 to 2019 rests entirely with DDA. The price of the flat as on 28th March, 2011 and as on 22nd January, 2019, when the impugned judgment was passed is bound to be astronomically higher considering the prevailing rates in the State of Delhi. There is no discernible distinction in the DDA Scheme, 2008 as compared to the Housing Schemes, which were considered by the coordinate Benches in the aforesaid judgments so as to justify the impugned direction to the Appellants herein to pay the price of the flat prevailing on the date on which the allotment is offered.

30. The direction in Pinki Punia (supra) to offer the flats at price prevailing on the date on which allotment is offered was passed in order dated 29th April, 2013, whereas, the judgments of the Division Bench in Mahinder Pal Sikri (supra), Nanak Chand (supra) and Dev Raj (supra) have been delivered thereafter; and therefore, the Court in Pinki Punia (supra) did not have a benefit of the said judgments.

31. However, to balance the interest of both parties, we are of the opinion that the Appellants should pay reasonable interest to DDA on the 'principal amount' [i.e., the price of their respective flats, prevailing on the date of filing of the petition]. Learned counsel for the Appellants states on instructions that the Appellants are ready and willing to bear the interest for the period 22nd January, 2019 until the date of payment. He states that for the period prior thereto the Appellants should not be made liable. We are unable to accept this submission of the Appellants, since the sale consideration amount remained with the Appellants and it would be



equitable that a reasonable interest on the said amount for the duration of the pendency of both, the writ and appeals. This is also in consonance with the direction of payment of interest at 6% p.a. issued by the learned Single Judge in the impugned judgment at paragraph 14, to which there is no challenge by the Appellants or the Respondent.

32. Accordingly, in the present cases it is directed that the Appellants will be liable to pay interest at the rate of 6% simple interest p.a. on the principal amount, for the entire period of the pendency of the writ petitions and appeals, till the date of full payment.

33. We accordingly, in the present cases direct that the Appellants be allotted their respective flats by DDA at the price prevalent on the date of filing of the writ petitions. The Respondent-DDA is directed to offer the allotment letters to the Appellants within four weeks from the date of pronouncement of this judgment along with computation of interest at 6% simple interest p.a., from the date of filing of the writ petition. The Appellants are directed to deposit the price of the flat, with interest, with the Respondent-DDA within four weeks of receipt of allotment letter.”

9. In light of the judgments of the Division Benches of this Court as aforementioned, plea of the DDA that flat will be allotted to the Petitioner as per circular dated 13.10.2011 cannot be accepted. It is thus held that the costing will be worked out by taking the rates prevalent on the date the writ petition was filed by the Petitioner.

10. For all the aforesaid reasons, Speaking Order dated 22.07.2019 is quashed to the aforesaid extent and DDA is directed to conduct a mini draw of lots within a period of five weeks from today and allot the flat to the Petitioner at the price prevalent on the date of filing the writ petition.

11. Accordingly, this writ petition is allowed and disposed of in the aforesaid terms.

JYOTI SINGH, J

NOVEMBER 19, 2025/YA