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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 19.05.2025**

+ LPA 795/2023

SHRI YASHPAL SINGHAppellant

Through: Mr. Dwarka Sawale, Advocate.

versus

THE SECRETARY LAND AND BUILDING DEPARTMENT
THROUGH THE CHIEF SECRETARYRespondentThrough: Mr. Anil Pandey for Mr.
Siddharth Panda, Advocate.**CORAM:****HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN****SHANKAR****JUDGMENT (ORAL)****HARISH VAIDYANATHAN SHANKAR, J.**

1. The present appeal challenges the Order dated 11.10.2022 passed by the Ld. Single Judge in W.P. (C) 3653/2018, titled as “*Shri Yashpal Singh vs. The Secretary (Land and Building Department¹)*”.

The prayers sought before Ld. Single are as follows:

- “(i) Issue a writ of mandamus or any other writ, order or direction to set aside or quashing of the impugned order dt. 13.08.2012 issued by the Respondent and to consider the case of the petitioner on priority basis and allot him atleast 250 sq. yards alternative plot of land in Delhi as per his entitlement at the old circle rate of 1979-80;
- (ii) Award cost of the Petition in favour of the Petitioners and against the Respondents;
- (iii) grant any other relief to the Petitioner which this Hon'ble Court may deem fit and proper in the interest of justice in the facts and

¹L&B



circumstances of the present case.”

2. The communication dated 13.08.2012 which was impugned before Ld. Single Judge is as follows:

“GOVERNMENT OF NCT OF DELHI
LAND & BUILDING DEPARTMENT
(ALTERNATIVE BRANCH)
VIKAS BHAWAN: NEW DELHI -110002

F.33(42)/1/88-93/L&B/Alt. 8072-73 Dated: - 13/8/12

To
Sh. Yashpal Singh
H.No.2983, Arya Pura,
Subzi Mandi,
Delhi-110007.

Sub:- Reply of application under RTI Act of 2005, vide RTI
I.D.No. 6357/12.

Sir,

With reference to your RTI application ID No. 6357/12, it is stated that the point wise reply as under: -

1. The question asked by the applicant is not specific hence it is not possible to provide the requisite information.
2. It is stated that your name is not in the draft seniority list for the period 1979-2000. After going through the file the case has been rejected on account of that the applicant is having a residential house out of the village abadi.
3. As in point no. 2.

Dy. Secretary (Alt)

Dated: -

F.33(42)/1/81-93/L&B/Alt.

Copy to: -
PIO, L&B Deptt./D.S.(RTI) for information

Dy. Secretary (Alt)”

BRIEF FACTS:

3. The Appellant was one of the owners of agricultural land



comprised in Khasra no. 1 Min, 2 min, 26, 27, 28, 29, 30, 31, 2/1 min, 2 min, 26-32/1/2 min, measuring 50 Bighas 04 Biswas situated in the village Sanjar Pur, Delhi, to the extent of 1/6th share in the same. The agricultural lands were ancestral family lands and came to be acquired by the Respondent by Award No. 43/79-80 and 211/86-87.

4. It is the case of the Appellant that upon acquisition of the said lands, by virtue of the Scheme dated 02.05.1961 for **Large Scale Acquisition, Development and Disposal of Land in Delhi**², he was entitled to a residential plot, and accordingly, he applied for allotment of a plot under the said Scheme. It appears that the brothers of the Appellant had also made similar applications.

5. It is also the case of the Appellant that his application, upon consideration by the Assistant Housing Commissioner (**Alternate Branch**³), received a positive recommendation opining that the Appellant was eligible for a plot of 250 **square yards**⁴ as the co-owner families had outgrown the existing accommodation of their allotted residential house and the same would not suffice for their future use, thereby making it a fit case for making an exception. While making the recommendation, the concerned Assistant Housing Commissioner had considered the fact that the Appellant and his brothers and cousins being joint owners of the house where they were residing, which was on a plot of 212 sq. yds.

6. It would appear that, subsequent to the relied upon recommendation dated 15.12.1993, no further action was taken by the Appellant herein till sometime in the year 2012, at which point in time

²The Scheme

³Alt.

⁴Sq. Yds.



the Appellant addressed a **Right to Information**⁵ application, being RTI application ID No. 6357/12.

7. The concerned Deputy Secretary (Alt.) of the **Government of National Capital Territory**⁶ of Delhi had replied to the said application *vide* the impugned communication dated 13.08.2012, extracted hereinbefore.

8. The Appellant herein, by way of the W.P.(C) 3653/2018 in which the impugned order came to be passed, challenged the said reply to the RTI application and also sought for allotment of a plot of 250 sq. yds.

9. The Ld. Single Judge of this Court, after examining the entire issue, has held as follows:

“14. Heard the counsel appearing on behalf of the parties and have also perused the record.

15. Upon perusal of the record, it is found that the petitioner has not challenged the rejection order passed by the respondent upon his application seeking allotment of alternative plot. The petitioner is before this Court seeking setting aside of order on his RTI application wherein he was intimated about the rejection of his application for allotment of alternative plot under the Scheme of 1961.

16. 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 and 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.

17. 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”

⁵RTI

⁶NCT



18. This objective has also been reiterated by this Court as well as the Hon'ble Supreme Court in various cases. A 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 Virley 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"

19. Further, in **Surender Singh Mann vs. Government of NCT of Delhi, W.P.(C) 12306/2015**, decided on 25th August 2017, a 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."

20. 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".*

21. 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.

22. The Scheme provides for conditions under paragraph 10, which were updated and modified with time and as per requirements. These conditions acted as eligibility criteria for the land owners whose lands were acquired and who became entitled to be considered for allotment of alternate plot, subject to the conditions laid.

23. These conditions which stood under paragraph 10 of the Scheme are reproduced hereunder: -

"10. The following conditions shall govern the allotment of land whether by auction or otherwise to individuals (including those whose land has been acquired):

a) No plot should be allotted to any person, who or whose wife/husband or any of his/her dependent relations including unmarried children owns a house or residential plot of land in Delhi, New Delhi or Cantonment. The question of making an exception in the case of persons living in a congested locality or whose family has out-grown should be considered after some experience has been gained of the



working of the scheme.

b) The allottee of a plot should be required to construct the house in accordance with the sanctioned plans within two years of the date of allotment, failing which the land would be liable to be resumed.

c) The allottee of a plot shall not sell or transfer his rights in the plot or part thereof for a period of 10 years from the date of allotment except with the previous approval of the Chief Commissioner which will be given only in exceptional circumstances. Thereafter the permission to sell will be given to the Chief Commissioner. In both the cases, 50% of the unearned increase in the value of the plot will be paid to the Government before the transfer is permitted.....”

24. The Division Bench of this Court in **Government of NCT of Delhi vs. Veerwati, 2012 SCC OnLine Del 1444**, and its connected LPAs, held that there are four requisite conditions for consideration while filing and adjudicating the application for allotment of alternative plot. The relevant portion of the judgment is reproduced hereunder:-

“3. In the year 1961 the Government formulated the scheme for allotment of alternate plots to those land owners whose land is acquired for planned development of Delhi and the land so acquired is placed at the disposal of the DDA. The allotment of alternate plot under this policy was subject to his satisfying, beside others, following conditions:—

a) The application must have been filed within a period of one year from the date of receipt of the compensation.

b) He should be recorded owner of the acquired land prior to the date of issuance of the Notification under Section 4 of the Act.

c) He must have received the compensation for the said land as a rightful owner and the possession of the acquired land has been taken by the Government.

d) Neither he nor his spouse nor any of



his dependent children own any residential property in Delhi.”

25. The same have also been reiterated by a Division Bench of this Court in **Ranjeet Singh vs. Govt. (NCT of Delhi), 2017 SCC OnLine Del 10794**, wherein it was observed as under:-

“3. Clause 10 stipulated further conditions for allotment of alternative plots to individuals. These were:

- (i) that the person being allotted the alternative plot should not own any other residential plot in Delhi,*
- (ii) that a building should be constructed thereon within two years of the allotment and thirdly that the plot cannot be transferred for a period of ten years from the date of allotment except with the permission of the Chief Commissioner.*

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10. DDA issued a printed version of the alternative plot allotment scheme outlining eligibility criteria and the norms for the sizes of plots, the procedure to be followed etc. Significantly, a reference was made to the Scheme contained in the letter of the Government of India dated 02.05.1961. It also stated that the plots are allotted by the DDA on the recommendation of the Govt. of NCT in terms of policy prescribed by the latter. There was a stipulation that those eligible, in the case of acquisition of ancestral land had to be recorded owners before the issue of the Notification under Section 4 of the Act. There was a condition that such individuals should have received compensation as rightful owners and possession of such land should have been taken by the Govt. of NCT of Delhi. The disqualifying condition stipulated was that applicants should not own a house or residential plot in their own name or name of the near and dependent relations. For awards announced prior to 03.04.1986, the land acquired was to be not less than 150 sq. yards and for post 03.04.1986 awards, it was to be not less than 1 bigha. Under the sub-heading procedure followed by the Department, there were two columns for documents to be submitted. The first was in case of applicant being recorded owner at the time of Notification under Section 4 of the Act. The other column was if the applicant was not recorded owner, i.e. is one of the legal heirs of the deceased recorded owner. In the



latter case, in addition to the documents required to be submitted by the applicants belonging to the first category, certain other documents like death certificate, heirship certificate, relinquishment deed of other legal heirs and indemnity bond have to be submitted.”

26. 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 while making an application for allotment of alternative plot and while its consideration by the concerned authority.

27. The order intimating the petitioner about the rejection of his application is reproduced hereunder:-

“ With reference to your RTI application ID No. 6357/12, it is stated that the point wise reply as under:-

1. The question asked by the applicant is not specific hence it is not possible to provide the requisite information.

2. It is stated that your name is not in the draft seniority list for the period 1979-2000. After going through the file the case has been rejected on account of that the applicant is having a residential house out of the village abadi.

3. As in point no. 2.”

28. Although the rejection order of the respondent has not been placed on record, a perusal of the impugned order reveals that the allotment of alternative plot was rejected on the ground of existence of an alternative plot. An examination of the objective of the Scheme read with the observations made in the abovementioned judgments of the Hon'ble Supreme Court as well as this Court, definitively and unambiguously indicate that the Scheme of 1961 is targeted to those individuals, villagers, farmers etc. who may be rendered homeless or landless upon their land being acquired by the Government, or any Authority under it, for the purposes of development. The very structure of the Scheme suggests that it is a welfare and rehabilitative measure for those affected by the actions taken in the process of development of the State of NCT of Delhi. Being considered for compensation, whether monetary or in the form of alternate plot, is an entitlement which is available to individuals who fulfil the criteria provided for under the Scheme. Those who lose their homes or their agricultural lands, that are the only source of their livelihood, are the beneficiaries of schemes like these and rightly so need to be



facilitated as soon as possible. Such individuals, owners, villagers, farmers and their families cannot and should not be left remediless after their land is acquired. However, it should also be borne in mind that in garb of such welfare schemes, those who have alternative and effective means of sustaining a life do not take unfair advantage of the schemes and welfare provisions of the Government and its Authorities. Keeping in mind the objective of the Scheme, it is found that enforcing an eligibility criterion for consideration of application of allotment of alternate land is not unreasonable or unfair and is in fact required for ensuring that the active and effective measures reach those who are in need.

29. Since, the very purpose of the scheme for allotment of alternative plot is to provide for those who do not have any land left, residential or agricultural, subsequent to their land being acquired, and even the conditions laid under the Scheme provide for the ineligibility on account of ownership of a land, it is found that the case of the petitioner does not fulfil the eligibility criteria and hence, he was rightly found not entitled to the alternative accommodation under the Scheme.

30. Keeping in view the pleadings, submissions, impugned order and the observations and discussions in the foregoing paragraphs as well as present facts and circumstances, it is found that there is no error apparent on the face of record or any gross illegality in the impugned communication dated 13th August 2012. The existence of an alternative plot, however, large or small, will not invoke any entitlement in favour of the petitioner for allotment of an alternative plot. Moreover, the challenge has been brought about against the order on the application of the petitioner under RTI Act and hence, this Court finds that there is no relief that may be granted to the petitioner in the present circumstances.

31. Accordingly, the instant petition is dismissed.

32. Pending applications, if any, also stand disposed of.

33. The order be uploaded on the website forthwith.”

ANALYSIS:

10. The Appellant, in his written pleadings, has stated that his brother was given an alternate plot. The same does not appear to be supported by any document except for a hearing notice from the Respondent for the purpose of consideration of an alternate plot, based



on an application by the Appellant's sibling, sometime in the year 2005. No oral argument in this regard was advanced by the Appellant. In any event, this Court finds nothing on record to support the contention of the Appellant.

11. This Court would now consider the challenge raised in the Writ Petition itself, from which the impugned Judgment arises, being the foundational basis for the present Appeal.

12. Clearly, the impugned communication dated 13.08.2012, which came to be challenged by the Appellant/Petitioner in the Writ Petition, was only a letter apprising the Appellant/Petitioner of the contents of the file and not a rejection of any right of the Appellant. It was "information" regarding the rejection having taken place. Impugning the same, to our mind, would have yielded nothing. The said communication was not a rejection of the application for an alternate plot. No challenge was laid to the actual rejection of the plot. This rejection appears to have taken place much earlier and will become clearer from our discussion in the latter part.

13. We are in agreement with the conclusions drawn by the Ld. Single Judge in respect of the eligibility criteria set out in the Scheme and the objective espoused by the Scheme, which was essentially to ensure that any person whose land had been acquired would be entitled to rehabilitation. The said eligibility criteria proscribed any benefit to a person who already had a residential plot/property in Delhi. Since the Appellant herein admittedly was already residing in a residential property, he is rendered ineligible for the benefits of the Scheme.

14. However, upon a conspectus of the facts of the Writ Petition,



we are of the firm belief that the Writ Petition, as filed, was barred by delay and laches and also, misconceived, being that it sought to challenge a reply to an RTI Application. The reasons for the same are elaborated in the following paragraphs.

15. The Appellant, in the Writ Petition, in support of his claim for the alternate 250 sq. yds. plot relied upon the Scheme and his application dated 07.05.1981 under the same. This application appears to have been clubbed with that of two of his brothers and accorded consideration jointly, sometime in 1993 and also in 1994.

16. The file notings as annexed to the Writ Petition are extracted in their entirety as follows:

“No. F. 33(42)/3/81/L&B/Alt.

No. F. 33(42)/2/81-93/L&B/Alt. (Enclosed)

No. F. 33(42)/1/81-93/L&B/Alt. (Enclosed)

The cases of three co-owners S/Sb. Hari, Chaman Singh & Yashpal Singh all sons of Late Dhir Singh are being dealt in these files. The applicants are recorded owners of acquired land measuring 4 bigha and 2 biswas each of acquired land of village Sanjar-Pur as per details given on page 20/N. The land has been acquired for Planned Development of Delhi and has been handed over to DDA on 26.12.80. Award of acquisition i.e. Award No. 43/79-80 has been announced on 28.3.80.

The applicants have completed all the formalities. On the basis of their share in acquired land, each of the applicants is entitled to a plot of 250 sq. Yds. except for disability of having share in residential property No. 2982-83, Jiwan Nivas, Arya Pura, Subji Mandi, Delhi. Ordinarily, owning a house/plot/flat in Delhi/New Delhi and Delhi Cannt. out-side of village abadi is a disability and such persons can not be recommended an alternative. However, in this case six persons (3 applicants & the 3 cousins) are joint owners of a house constructed on 2982-83, Arya Pura, which is a plot of 212 sq. yds (House Tax receipt for 1982-83 at page 78/C.) This house is built on a covered area of 120 Sq. Yds. consisting of six rooms, two kitchens, one bathroom and one toilet which being shared by all the six co-owners.



From the above, it is clear that the families of six co-owners are residing in a house of six rooms.

Such a situation where the family has outgrown had been visualised at the introduction of the scheme and sub para 10-A of Para 2 (flaged-A) reads as under:

“No plot should be allotted to any person who or whose wife/husband or any of his/her dependent relations including unmarried children owns a house or residential plot of land in Delhi, New Delhi or Cantonment. The question of making an exception *in the case of persons living in congested locality or whose family has outgrown* should be considered after some experience has been gained of the working of the scheme.”

This is a case where the co-owners families have outgrown and the existing accommodation of their residential house 2982-83, Jiwan Niwas, Arya Pura will not suffice for their future needs and is therefore, a fit case for making an exception. In this regard it will be relevant to add that no guide-lines in this regard for making a exception have been framed as yet and no such case has come for disposal during my tenure in alternative branch. Under these circumstances, Secretary (L&B) may take a considered view and in case an exception is to be made, guide-lines for future use may also be laid-down.

Submitted for orders please.

(M.L. Raina)

ASSTT. HOUSING COMMR. (ALT.)

JOINT SECRETARY (L&B)

SECRETARY (L&B)

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The case was discussed on 17.12.1993 and it was advised that guidelines for making an exemption in this regard may be worked and a note in the guidelines that could be followed is added at pages 93-100/-
please

Sd/



45. This is a case under the Scheme of Allotment of Alternative Plots. In this case the applicants were co-owners of land admeasuring 2 bighas and 2 biswas each which was acquired in village Sanjerpur for the Planned Development of Delhi and has been handed over to the DDA in 1980. (The reasons for pendency are given later in this note.)

46. The three applicants are joint owners of a house in Aryapura, on a plot of 212 sq. yds of six rooms, two kitchens, one bath room and one toilet which are being shared by six co-owners of whom three are the present applicants. But for the disability of possessing a plot of land and house in Delhi, the applicants are in every way eligible each to be given an alternative plot. Since they possess this property, however, they are not eligible to be given an alternative plot.

47. This case was brought to my notice by the Hon'ble Development Minister, Shri Sahib Singh Verma. It was felt that a rigid rule which debars anybody from an alternative plot merely because of possession of even a part share in an inadequate residence in Delhi may have anomalous and unfair consequences.

48. There is undoubtedly a point in what the Hon'ble Minister has said. Such a situation was also envisaged in the original scheme which did provide that "The question of making an exemption in the case of persons living in a congested locality or whose family has outgrown should be considered after some experience has gained of the working of the scheme." This matter has never subsequently been considered and it would be reasonable to do so now.

49. This brings us, however, to the question what should be the specific criteria to be adopted for the above-referred exemption. It is necessary here that we should have some objective criteria which are not difficult to interpret. Such criteria would have to pertain (i) the size of family and (ii) the property already possessed.

50. So far as the size of the family is concerned, the criterion should not be numerical since we do not want to give extra benefits to people who have numerous children. Again, the criterion of a number of households sharing a dwelling unit would be problematic in several ways. A better criterion, therefore, should be the number of married couples sharing the same accommodation. If more than one married couple are sharing the same accommodation. If more than one married couple are sharing the same accommodation, then all but one of them should (subject to the second criterion to be described below) be treated as eligible for allotment of an alternative plot.



51. It is suggested that the second criterion should be that the size of plot already possessed should not be larger than the size to be allotted. Thus, if a person is entitled to be allotted an 80 sq. yds. plot and he already possesses a plot in excess of 80 sq. yds. (even though he may be sharing it) he should remain ineligible. If the shares a plot upto and including 80 sq. yds. of area, he should remain entitled to 80 sq. yds.

52. It remains to consider the date of applicability. It may open a Pandora's box to apply the above relaxation to all the cases that may have been considered in the past. There would be problems in determining the facts in each case. On the other hand, if we were apply it to the few (about 40) cases pending as of today, it would lead to inconsistency and might seem discriminatory. For example, in the present case, the applicant handed over possession in 1980. His case should have been disposed of (and rejected) long ago. In fact, the record shows that the case was closed in 1984 because the applicant did not submit some documents that were required. It was reopened in 1989 on his representation. According to the record, he finally submitted his documents only in Sept, 1993. In these circumstances, it does not appear justifiable to give undue benefit of the proposed new policy in such cases merely because they are still pending.

53. Applications have now been reinvited from persons whose land was acquired (i.e. who handed over possession) after 31.12.89. For the future, the system of time-bound advertisement inviting applications has been done away with; the LAC will obtain and forward the applications routinely and anyone will be free to apply within a year of the acquisition, vide advertisement at Flag 3.

54. It is, therefore, suggested that the new principle suggested above be applied only to persons whose land was acquired after 31.12.1988. Alternatively, it would be made open to anyone whose case was rejected on grounds of possession of a house/plot in Delhi to establish eligibility in terms of the above criterion on the date of eligibility.

55. Submitted for orders on the proposals at para 50-51 and 52/54 above.

JAGDISH SAGAR
COMMR. & SECRETARY (L&B AND PWD)

CHIEF SECRETARY
LT. GOVERNOR

.....”



17. From a reading of the consideration accorded, it would appear that the Appellant and his brothers were entitled to a plot of 250 sq. yds., but for the stipulation in the Scheme that they should not have a house/plot/flat in Delhi, outside the village Abadi. Admittedly, the Appellant herein was hit by the said disability. However, the said Scheme also carried the exception as set out in Clause 10(a) of the Scheme, which is reproduced hereinbelow:

“10. The following conditions shall govern the allotment of land whether by auction or otherwise to individuals (including those whose land has been acquired):

a) No plot should be allotted to any person, who or whose wife/husband or any of his/her dependent relations including unmarried children owns a house or residential plot of land in Delhi, New Delhi or Cantonment. The question of making an exception in the case of persons living in a congested locality or whose family has out-grown should be considered after some experience has been gained of the working of the scheme.”

(Emphasis supplied)

18. It would also appear that the Appellant’s application received a favourable recommendation, based on the exception in the then-policy. However, it also appears that the Government had not formulated any specific criteria for applying the said exception. The case of the Appellant herein seems to have been referred by the then Hon’ble Development Minister leading to the formulation of the policy for making an exception on the lines as set out in the note.

19. The extracted file noting aids us in filling the huge gaps in the facts of the present matter and the same may be set out as follows:



	1979-80	Land of the Appellants was acquired.
	07.05.1981	Appellant made an application for allotment of alternate land. Apparently, a request was made for submitting documents in support of this application.
	1984	The case of the Appellant was closed as he did not submit his documents.
	1989	The Appellant seems to have made another representation for alternate plot.
	1993	Appellant finally submits his documents.
	15.12.1993	Sh. M.L. Raina, Assistant Housing Commissioner (Alt.) makes his recommendation in respect of the Appellant and his brothers.
	20.01.1994	Sh. Jagdish Sagar, the then Commissioner & Secretary, (L&B & Public Works Department ⁷) makes his suggestion as articulated in Para 54 of the same and which reads as follows: “54. It is, therefore, suggested that the new principle suggested above be applied only to persons whose land was acquired after 31.12.1988. Alternatively, it would be made open to anyone whose case was rejected on grounds of possession of a house/plot in Delhi to establish eligibility in terms of the above criterion on the date of eligibility.”
	13.08.2012	RTI reply to an application made sometime in 2012. [Impugned Communication]

20. It is apparent that the file was closed as far back as 1984 as the Appellant had not submitted the requisite documents in support of his application. Based on his request, the same seems to have been re-opened sometime in 1989. Thereafter, it would appear that the Appellant was requested to submit documents, which too came to be submitted by him, only sometime in September 1993.

21. Thus, it would appear that the Appellant has been guilty of sleeping over his rights from the very beginning. This indolence led to the closure of the file in 1984. After the re-opening of the case in 1989, the Appellant finally submitted his documents sometime in

⁷PWD



1993 and in 1994, the Appellant's application stood rejected. We may, at this juncture note that this Court, in the matter of ***Raj Karan vs. Land and Building Department***⁸ has held that a case once closed, as per policy, could not be re-opened. The relevant paragraph is as follows:

“8. On 5th September, 2002, one Mr. Om Prakash stated to be the son of Sh. Jai Lal claiming to be the co-owner of the acquired land, had applied for the alternative plot suppressing the fact that on earlier occasion, his brother Sh. Raj Karan had applied for the alternative plot and that the case was closed in the year 1993. However, despite the said fact the application filed by Sh. Om Prakash dated 5.9.2002, was considered and rejected by the Land Allotment Committee on the ground that the application was time-barred being filed after prescribed last date 1st May, 1989. The scheme of the respondents for allotment of alternative plot also envisages that a closed case should not be re-opened and the same does not vest any right for allotment of an alternative plot. The appellants could have been allotted alternative plots, if they fulfilled eligibility conditions and had complied with the prescribed terms and conditions as per the policy. The appellants have failed to fulfil the conditions stipulated in the policy. We find no reason to interfere with the order passed by the learned Single Judge.”

(Emphasis Supplied)

22. Assuming for a moment that the file was re-opened, even then, the Appellant has chosen to do nothing after the re-opened file was rejected in 1994.

23. In the communications of the Appellant, dated 18.01.2017, 05.06.2017 and 01.07.2017, as well as the pleadings, there is nothing to suggest that the Appellant did not have knowledge of the closure of his file in 1984 or of the rejection in 1994. The Appellant, on both occasions, chose to do nothing.

24. Subsequent to the rejection on file, in the year 1994, after a long hiatus of 18 years, sometime in 2012, the Appellant chose to make an

⁸2007 SCC OnLine Del 1431



RTI Application seeking certain replies. The reply to the RTI application was received on 13.08.2012. Even at that point in time, the Appellant chose to do nothing.

25. Almost four and a half years later, by way of a legal notice dated 18.01.2017, the Appellant chose to make a further application for an alternate plot of land. To recap, this was the Applicant's third application; the first being in 1981 (which was closed in 1984) and the second being in 1989 (documents were submitted in 1993 and rejected in 1994).

26. It would appear that the Appellant also filed a Writ Petition bearing No. W.P.(C) 3554/2017 titled as "*Yashpal Singh vs. The Commission Secretary (Land and Building Department)*", which came to be disposed of as withdrawn with liberty to file afresh after curing the defects.

27. Instead of filing the Writ Petition afresh, the Appellant chose to file an "Appeal" against the alleged "Rejection Order" dated 13.08.2012, which was only a reply to the RTI application, before the Commissioner/Secretary (L&B) on 02.05.2017.

28. He follows it up with two reminders dated 05.06.2017 and 01.07.2017.

29. By communication dated 04.10.2017, the Respondent authorities clearly mentioned that the information of the rejection had been conveyed by the reply to the RTI Application. The communication dated 04.10.2017 is not under challenge.

30. The Appellant herein finally chooses to prefer the Writ Petition (C) No. 3653/2017 in the month of November 2017 and is permitted to make amendments, which he carries out sometime in 2018.



31. It would be necessary to note the reason given by the Petitioner seeking to explain why the Writ Petition came to be filed before this Court, only in the year 2017. The same is as follows:

“11. That the younger son of the petitioner, namely Divyapal Singh expired on 19.8.2013 and thereafter, the Petitioner also suffered from serious illness, hence the petitioner could not move this petition earlier. True copy of the death certificate is annexed herewith as Annexure P-11.”

32. The reason sought to be given is the death of one of his sons and the ill health of the Appellant. While we are sympathetic about the death of a child, it is a matter of fact that the Appellant has other children and grand-children. It is also an admitted case that he has two more siblings who are equally affected by the non-grant of an alternate plot, which they are allegedly entitled to. This Court may not be wrong in assuming that the siblings of the Appellant too, would have children, capable enough of pursuing any fight for their “legal rights”.

33. The perfunctory and cavalier explanation for the delay, in any event, could at best be held to be relatable to the period between 2013 and 2017. The reasons are clearly unsatisfactory.

34. There is yet another aspect of the matter. The Scheme, as has been held, was a rehabilitation measure to ensure that persons whose lands had been acquired by the State were not left landless or sans a place to live. The Appellant was already compensated in terms of money and also had a residence. If the Appellant was, as has been sought to be canvassed, someone who had a *bonafide* and genuine need, there is no reason for him to delay his request for the same, for nearly four decades (1980-2017).



35. In the Judgment of *Ramwati vs. Govt of NCT of Delhi*⁹, this Court had, in almost similar circumstances, held that there is an element of urgency in such rehabilitation schemes and such allotment is in any case not a matter of right. The conduct of the Appellant does not evidence any *bonafide* need for rehabilitation. The relevant paragraphs of the said Judgment state as follows:

“11. We have again carefully perused the pleadings in the writ petitions and do not find the appellants/writ petitioners to have approached the Court with such a case; rather they categorically pleaded the letter dated 1st September, 1999 in the chronology of events. In fact, as far as LPA No. 228/2014 is concerned the learned Single Judge has observed that “it is not in dispute that the petitioner was very much aware of the rejection of his case vide letter dated 01.09.1999”. The order appears to have been dictated in open Court and if there was no such admission the counsel ought to have objected immediately. Even if there was any error in listening, application in this regard should have been made before the learned Single Judge and which admittedly has not been done and rightly so because it is nowhere pleaded in the writ petition that the appellant/writ petitioner was not aware of the rejection vide the letter of 1st September, 1999.

12. Thus, on the basis of the pleadings, the petitions filed in or about October, 2013 impugning the rejection letters dated 1st September, 1999 were rightly held to be not maintainable and to be barred by laches and acquiescence and waiver and the subject matter thereof having become stale.

13. We may also notice that even it is to be believed that the appellants/writ petitioners became aware only in the year 2010 of rejection of their request for alternative plot, there was a delay of nearly three years therefrom also in filing the petitions.

14. It has been held in *Leelu v. Union of India* and in *Shri Sunder Singh v. Union of India* that there is an element of urgency and rehabilitation in the scheme for allotment of alternative plots and which allotment in any case is not a matter of right [See i) *Ramanand v. Union of India* AIR 1994 Delhi 29 (FB), ii) *Chander v. Delhi Administration* 91 (2001) DLT 121 (DB), and iii) *Dewan Singh v. Government of Delhi* AIR 2011 Delhi 76 (FB)]. The delay from 1999 till 2013 in impugning the rejection of

⁹2014 SCC OnLine Del 4062



the request for alternative plot is clearly indicative of the appellants/writ petitioners being not in need of such a plot and the writ petitions and these appeals have been filed by way of a wager.”

(Emphasis supplied)

36. Instead of raising an appropriate challenge at the relevant stages, the Appellant appears to have slept over his rights for inordinate lengths of time at different periods. The Appellant has taken his own sweet time to approach the authorities and also this Court. The Appellant is clearly guilty of indolence and complacency. He has on multiple occasions, chosen not to submit documents in time and has also clearly been guilty of sleeping over his case for years on end. As mentioned earlier this Court is forced to observe that, in fact, the Writ Petition ought to have been dismissed, not only for having challenged a reply to the RTI communication, which does not in any manner determine any right of the Appellant, but also for the reason that the Petition is hit by delay and laches. We, therefore, hold that, this Appeal is without any merit and deserves to be rejected.

37. The present appeal, along with pending application(s), if any, stands disposed of in the above terms.

SUBRAMONIUM PRASAD, J.

HARISH VAIDYANATHAN SHANKAR, J.

MAY 19, 2025/v/er