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

+ **W.P.(C) 4628/2012 & CM APPL. 9589/2012**

ONKAR NATH

.....Petitioner

Through: Ms. Richa Kapoor, Ms. Udipti
Chopra, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Vaibhav Agnihotri, ASC with
Mr. Vidit Pratap Singh, Mr. Harshit
Kiran, Mr. Ankit Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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11.03.2026

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:-

“(A) A Writ of Certiorari calling for records of the case for perusal;

(B) A Writ of mandamus thereby commanding the respondents to treat the case of the petitioner under the policy of missing priority at tail end;

(C) A Writ of mandamus commanding the respondent DDA to hold time bound draw for alternative allotment of flat under the LIG category in the West Zone at the cost of September, 2007 as per policy of missing priority at tail end. ...”

2. The case of the petitioner is that in 1979 the petitioner registered



under the New Pattern Registration Scheme 1979 (“**NPRS 1979**”) for allotment of flat under the category of Lower Income Group (“**LIG**”) *vide* LIG registration No. 5373 upon payment of Rs. 1200/- as registration amount. In 1984, the said registration matured and subsequently, petitioner was included in the draw held on 15.03.1984 and a LIG flat bearing No. R-27F, Dilshad Garden was allotted to him. Later, a demand-cum-allotment letter dated 10.12.1984 was issued to the petitioner raising a demand of Rs. 80,572.28/-.

3. The petitioner made a representation to the respondent i.e., Delhi Development Authority (“**DDA**”) for alternate allotment at locality near to his place of work i.e., Rajouri Garden and for change of the floor to ground floor *vide* letter dated 18.01.1985. The said request was rejected by the respondent *vide* letter dated 27.02.1985.
4. Subsequently, the respondent sent a show cause notice dated 09.07.1985 to the petitioner qua cancellation of allotment on account of non-payment of demanded amount and non-submission of required documents. The petitioner replied to said show cause notice *vide* letter dated 26.07.1985.
5. It is the case of the petitioner that, after convincing the respondent, the petitioner got an order dated 30.07.1985 from the Vice Chairman of DDA, marked to Commissioner (Housing), to the effect that “change to West (vikas puri) subject to availability may be allowed, HP allowed”. However, despite the same, the respondent *vide* letter dated 11.09.1985 cancelled petitioner’s allotment of flat in Dilshad Garden.
6. The petitioner *vide* representation dated 24.10.1985, again reiterated that the Vice Chairman of DDA has already ordered change of



locality and that his case was under process and requested the respondent to withdraw the cancellation. Since, no allotment was made to the petitioner, made representations and visited DDA's office.

7. It is the case of the petitioner that the allotment under NPRS 1979 were taking place under the Tail End Policy for LIG category, which petitioner belonged to, but no intimation was sent and the petitioner never became aware of the holding of Tail End Draws. Later sometime in January/February, 2008, petitioner got to know that that registrants of draws dated 27.09.2007 were awaiting allotment, however, he did not know that the draw of 27.09.2007 was tail end draw for an LIG category. The petitioner got informed sometime in March/April, 2008 that the respondent took a policy decision to reject cases for allotment of registrants who were declared successful *vide* draw dated 27.09.2007 but had not paid cancellation charges.
8. The case of petitioner is that the respondent missed his priority for consideration at the tail end draw. The tail end draw was held on 27.09.2007 and the petitioner approached the respondent on 24.11.2010 i.e., within 4 years from the date of draw.
9. Subsequently, the respondent *vide* letter dated 10.03.2011 informed the petitioner that his allotment stood cancelled and the scheme had been closed because of which the only remedy available with him was to get a refund of his registration amount. Being aggrieved, the petitioner filed a Right to Information ("**RTI**") application on 17.03.2011. The DDA replied to the RTI Application *vide* letter dated 08.04.2011 and stated that on account of non-reply to the show cause



notice and non-submission of the cancellation charges, the allotment stood cancelled. After having perused the documents supplied to the petitioner, he for the first time read the letter dated 18.10.1985 and came to know about the cancellation charges. Thereafter, the petitioner submitted the cancellation charges *vide* challan dated 25.04.2011.

10. The petitioner again made representations and in reply the respondent *vide* letter dated 22.03.2012 informed the petitioner that his request had been rejected and that he should apply for refund of his registration amount.
11. Hence, the present petition.
12. Ms. Chopra, learned counsel for the petitioner, seeks to draw my attention to an endorsement made on the letter of the petitioner by the Vice Chairman of DDA, which is extracted below:-



change to West (vikas puri) subject to
availability may be allowed, HP allowed"

Sd/-

Vice Chairman dated 30.7.1985

To
Deputy Chairman
Delhi Development Authority
Vikas Bhawan, New Delhi-110002

Context:- F-21(977)/85/LIG/M.P. Dated 20-12-1984

Subject:- Application in reference of changing the locality of the flat allotted in Dilshad Garden by DDA and to transfer from cash down payment to hire purchase.

Sir,

It is hereby stated that in the draw held on 15.3.1984 I was allotted flat no. R - 27F Dilshad Garden, New Delhi which was on cash down. After that DDA vide its demand note no. F - 21(977)/84/dated 20.12.84 demanded the amount of Rs 82,000/- from me.

With regard to the aforesaid reference I request from you that I don't require the flat in Dilshad Garden because my old mother Smt. Kalawati Ji whose age is around 85 years is heart patient and she is undergoing treatment in hospital and the environment of Dilshad Garden has not suited her and my close relative is



staying at West Delhi who used to come from time to time to take care of my mother.

Therefore I request you with folded hands that kindly allot me flat of ground floor at any place in West Delhi which is of hire purchase because at present I am not in the condition to purchase the flat on cash down.

Thanking You

Dated:- 29.7.1984

Yours Sincerely
Sd/-

Onkar Nath
Son of Late Shri Girdhari Lal
Resident of E/89 Kamla Nagar, Delhi 11007

13. She states that this noting of the Vice Chairman of DDA constitutes an allotment in the petitioner's favour.
14. However, on 18.10.1985, the respondent DDA issued another letter calling upon the petitioner to submit additional documents and cancellation charges of Rs. 4,840/-. The petitioner duly replied to the said letter and sought waiver of cancellation charges *vide* letter dated 24.10.1985.
15. The case of the petitioner is that the petitioner was waiting for tail end allotment, and it was only when the petitioner in September, 2007 did not get any allotment in the tail end draw, the petitioner moved a RTI application on 17.03.2011 and became aware of the factual position. Thereafter, the petitioner even wrote a letter on 24.11.2010 and paid cancellation charges of Rs. 4,840/-.
16. I have heard learned counsels for the parties.



17. In the present case, admittedly, the cancellation of the petitioner was made for non-payment of the price of the flat on 11.09.1985. Even if I assume the endorsement of the Vice Chairman of DDA to be a fresh allotment, the petitioner was required to pay cancellation charges by 18.10.1985.
18. The law on delay and laches has been crystallised. The Hon'ble Supreme Court in ***Mrinmoy Maity v. Chhanda Koley, (2024) 15 SCC 215***, on the said issue categorically held as under:-

“9.An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be borne in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come



the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straitjacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, inasmuch as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in



approaching a writ court.”

(Emphasis added)

19. When any individual belatedly approaches the writ Court after sleeping over his/her rights for a long time, such person has no right to the extraordinary relief of writ. Definitely, there is no fixed period of limitation prescribed for filing of a writ petition and hence, such discretion must be exercised with utmost caution and should be used as per peculiar facts and circumstances of each case. It does not mean that the extraordinary jurisdiction of the writ court can be used to revive or resurrect a dead cause of action and if the writ petitioner is guilty of delay and laches, this Court has the discretion and power to dismiss the petition on that sole ground itself.
20. In my considered opinion, the present case is such case. The petitioner from the year 1985 till 2011 has been totally silent and inactive *vis-à-vis* the flat in question. There is neither any document nor any explanation in the petition explaining the non-actions or the steps taken by the petitioner from the year 1985 till 2011 i.e., a period of 26 years. The tail end draw does not resurrect the dead cause of action qua the petitioner.
21. I am of the view that the petitioner has no cause of action, and the present is barred by delay and laches and is accordingly dismissed.
22. Consequently, pending applications, if any, are also disposed of.

JASMEET SINGH, J

MARCH 11, 2026/sp