

(2003) 12 DEL CK 0029
In the Delhi High Court
Case No : CW No 1067 of 2002

Dharam Singh

APPELLANT

Vs

Lt. Governor, NCT of Delhi and Another

RESPONDENT

Date of Decision : 05-12-2003

Acts Referred:

Citation : (2004) 109 DLT 69 : (2004) 72 DRJ 383

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Vipin K. Singh, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Badar Durrez Ahmed, J.—In this writ petition the petitioner prays that a writ of mandamus or any other appropriate writ, order or direction be issued to the respondents to consider the application of the petitioner for allotment of alternative plot expeditiously and make the recommendation for allotment of alternative plot at the earliest.

2. Before examining the facts of the case, it would be relevant to note that the writ petition was earlier dismissed for non-prosecution on 14.2.2003. However, this court restored the writ petition by an order dated 04.03.2003. On the same day, the respondents were granted a last opportunity to file their counter affidavits and the matter was listed for 04.08.2003. In the order dated 04.03.2003 it was clearly indicated that the learned counsel for the petitioner shall inform the counsel for the respondents in writing about the passing of the said order of 04.03.2003 as well as the next date of hearing. When the matter was listed before this court on 04.08.2003, it was found that no counter affidavits had been filed on behalf of the respondents nor had anybody entered appearance on their behalf. Accordingly, the right to file the counter affidavit was closed and the matter was listed for final disposal on 29.10.2003. On this date, this court, in the interest of justice, felt that it would be appropriate if a final

opportunity was given to the respondents to appear in the matter and accordingly court notice was directed to be issued to the respondents through counsel for the next date. And the matter was listed for final disposal today. The court notice has been served on the counsel for the respondents, yet nobody has entered appearance on behalf of the respondents. In these circumstances, the matter is taken up for final disposal in the absence of the respondents and in the absence of any counter affidavits on their behalf. Accordingly, the facts as stated in the petition are uncontroverted.

3. The facts are that the petitioner owned some land in the village Shahpur Jat, New Delhi, part thereof was initially acquired in 1961. In 1963, the petitioner applied for allotment of an alternative plot. However, nothing resulted from such application. In 1967, some more land of the petitioner was acquired. In 1988, a scheme was introduced by the respondents whereby invitations for allotment of alternative plots were made through advertisements in newspapers. The petitioner, who was eligible for allotment as per the terms and conditions contained in the said invitation, applied for allotment of an alternative plot. On 17.06.93 the petitioner received a communication from the respondents that he was not found to be eligible for allotment of an alternative plot because the area of his land which was acquired was less than 150 sq. yards. Being aggrieved, the petitioner made a representation on 27.11.93 indicating that the land of the petitioner that was acquired was not less than 150 sq. yards and accordingly, he was eligible for allotment of an alternative plot. Other representations were also made by the petitioner in this regard. On 17.07.97, the respondents issued a letter to the petitioner requiring him to furnish further details along with a fresh application for allotment of alternative plot. Thereafter, in November, 1997, the petitioner filed a fresh application giving the details as required by the respondents. On 12.02.1998, the petitioner was informed by the respondents that his case was being kept in abeyance till a decision is taken regarding time barred cases as it was felt by the respondents that the application of the petitioner was barred by time. The petitioner thereafter made a further representation to the Government of India. Petitioner's case was considered in a meeting held on 29.06.98 and the petitioner's contention that the application was not time barred was accepted. Accordingly, the petitioner's case for allotment of alternative plot was required to be considered on merits. The petitioner received a letter dated 03.09.98 from the respondents whereby the petitioner was required to furnish certain documents. The same were submitted by the petitioner on 02.11.98. Since nothing happened thereafter, the petitioner made a representation on 10.05.99 to the respondents requesting them for a personal meeting to explain his case. On 17.05.99, the petitioner was granted a personal meeting by the respondent No.2 who after going through the entire file made certain observations, particularly, to the effect that the petitioner's case ought to be considered on merits. On 01.06.99 when the petitioner again met the respondent No.2 in connection with the aforesaid representation and application, the respondent No.2 was pleased to direct that the petitioner's case

for allotment of alternative plot be recommended to the DDA which is the allotting agency. Unfortunately, thereafter nothing has been done and the petitioner is still without an alternative plot. His subsequent representations have not fructified into any meaningful result. Even his representation before the Public Grievance Commission has gone in vain. In these circumstances, the petitioner has approached this court with the prayers mentioned above.

4. It is clear from the narration of facts that the petitioner's application for allotment of alternative plot was not time barred and that it was required to be disposed of on merits. The petitioner has been requesting for an alternative plot since 1963 and 40 years have elapsed and the petitioner has been running from pillar to post to get a decision in his matter. While it is for the respondents to examine as to whether the applicant's case falls within the eligibility criteria or not, they owe a duty to come to a decision as expeditiously as possible so that the applicant is not kept waiting for years to come. Unfortunately, this is exactly what has transpired in this case. The conduct of the respondents has been callous, to say the least. The duty that was cast upon the respondents to take a decision in the matter, informed by law and reason, has not been discharged. The petitioner has demanded justice repeatedly but, to no avail. In this view of the matter, the writ petition is allowed and a writ of mandamus is issued to the respondents directing them to dispose of the application of the petitioner on merits within three weeks keeping in view the clear-cut recommendation of the respondent No. 2 dated 01.06.99 for allotment of an alternative plot to the petitioner.

5. The petition is accordingly allowed with costs which are quantified at Rs. 10,000/-.