

(2008) 03 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

LUDHIANA IMPROVEMENT TRUSTP

APPELLANT

Vs

TARLOCHAN SINGHR

RESPONDENT

Date of Decision : 26-03-2008

Acts Referred:

Citation : 2008 2 CPJ 130

Hon'ble Judges : Rajyalakshmi Rao , P.D.Shenoy J.

Final Decision : Revision Petitions disposed of

Judgement

1. -THE present Revision Petitions are heard together and since the issues involved are the same in these matters a common order is being passed.

2. BRIEF facts of the case are: shri Tarlochan Singh is the original complainant who applied on 6. 1. 1992 to the Ludhiana Improvement Trust (LIT for short) for allotment of a plot measuring 200 sq. yds. in a scheme known as "129 acres Rajguru Nagar Scheme", announced by LIT. He also deposited Rs. 1,500 and was allotted Sl. No. 1026. In June 1982, draw of lots for the scheme was held but Shri Tarlochan Singh was unsuccessful in the said draw. Then in October 1982, LIT published another advertisement for allotment of plots measuring 100 sq. yards to 200 sq. yds. under a scheme known as "475 acres Shahid Bhagat Singh Nagar Scheme". Under this scheme, plots were to be allotted in three categories: One of the categories is "25% of the plots to be reserved for those persons who have already applied for allotment of plots in other Trust schemes who were not successful".

In November 1982 Shri Tarlochan Singh submitted his option vide letter dated 9. 11. 1982 for consideration for allotment under this category "25% of plots reserved for unsuccessful persons in other trust schemes". Thereafter, despite several visits to the office of the LIT, no response was given to his queries with regards to his option.

3. THEN after a lapse of 12 years, in November, 1994, an advertisement from LIT appeared in a newspaper that draw of lots for "475 acres scheme" would take

place. After waiting for about 7 months, on 3. 6. 1995, Shri Tarlochan Singh sent a registered letter to LIT seeking allotment of a plot. In his letter he placed reliance upon the order dated 11. 5. 1995 in F. A. No. 73/1994 I. P. Singh v. Improvement Trust Ludhiana, passed by the State Consumer Disputes Redressal Commission, Punjab in terms of the order of the State Commission in the above case, the LIT allotted a plot measuring 200 sq. yards to the aforesaid Shri I. P. Singh in "475 acres scheme". Shri Tarlochan Singh wanted that similar dispensation should be given to him by the LIT in his case also. He wrote several letters during 1996, 1997 and 1998 pressing for his allotment on the above lines. Since there was no response, on 19. 6. 1998, Shri Tarlochan Singh filed a complaint bearing No. 344 of 1998 before the District Forum, Ludhiana praying for direction to LIT to allot him a plot measuring 200 sq. yards at Rs. 125 per sq. yard which was the reserved price at that time and for grant of compensation of Rs. 2. 5 lakh on account of harassment, mental agony and escalation in the cost of construction.

4. THE District Forum by its order dated 4. 3. 1999 directed the opposite party, LIT, to hold draw of lots "25% quota reserved for the unsuccessful applicants of the earlier scheme" after including the name of the complainant among the applicant for "475 acres scheme" for which the complainant had already given an option and if successful, allot a plot. It further directed if the draw was not held, within two months from the date of the order, the opposite party shall allot a plot to the complainant within 15 days thereafter on the reserved price. The opposite party was also directed to pay Rs. 5,000 on account of mental agony and Rs. 1,000 on account of litigation expenses to the complainant. Since even after 7 months after the order of the District Forum, no action was taken, the complainant filed an execution petition. It is only then, the LIT filed F. A. No. 1070 of 1999 before the State Commission, wherein they contended that there was no plot of 200 sq. yards size in the "475 acres scheme" and so compliance with the order of the District Forum is an impossibility. On 29. 10. 2002, the State Commission disposed of the First Appeal by modifying the District Forum's order to the extent that LIT should consider the name of the complainant in some other scheme on the same terms and conditions as were prevalent for the "475 acres scheme". Thereafter, in March 2003, the complainant wrote to LIT giving his option for allotment of a plot in any of the 8 pending schemes of LIT. However, nothing has happened. In January 2005, the complainant came to know that a plot measuring 200 sq. yards was in fact available in the "475 acres scheme". On 21. 2. 2005, he filed a miscellaneous application bearing No. 166 in F. A. No. 1070 of 1999 seeking appropriate action against the concerned officers of LIT for making wrong statements in Appeal No. 1070 of 1999 that no plot of 200 sq. yards was available.

5. THE State Commission passed an order on 10. 5. 2005 on the miscellaneous application. In the State Commission after noticing that the plot No. 179-E, approximately measuring 197 sq. yards was in fact available for allotment in the "475 acres scheme", directed LIT that the same should be allotted to the

Complainant within one month. In its order, the State Commission specifically noted that "it is not disputed that by virtue of the aforesaid order, a 200 sq. yards plot was liable to be allotted to Shri Tarlochan Singh, the Complainant/applicant. " The LIT failed again to comply with the aforesaid order of 10. 5. 2005. The State Commission then through an order directed a personal appearance of the Executive Officer of the Trust on account of non-compliance.

6. IT is only then that LIT filed a Revision Petition No. 2106 of 2005 in this Commission against the aforesaid order dated 10. 5. 2005. An interim order was passed by us on 5. 8. 2005, inter alia directing LIT to hold draw of lots within a month. LIT advertised in the newspaper that the draw of lots would be held on 5. 9. 2005. By a subsequent order dated 1. 9. 2005, the Commission issued the following directions: "we direct the petitioner (LIT) that in the draw which is likely to be held on 5th September, 2005, 25% plots shall be kept reserved separately for the unsuccessful allottees in the old scheme and a separate draw shall be held in respect of those unsuccessful allottees. " Learned Counsel for the complainant submitted that Shri Tarlochan Singh thereafter found out that a list of 47 alleged eligible persons were displayed on the notice board in the office of the Chairman, LIT. He, however, noticed that other than himself, no other person belonged to the category of old applicants, i. e. 25% quota of persons who were unsuccessful in the earlier schemes. Just before the draw, but on the same day, the complainant submitted to the Chairman, a letter by hand, praying for issuance of allotment to him as out of the 47 eligible applicants, only the complainant was eligible for allotment of plot under the specific category of 25% quota. However, LIT went ahead with the draw of lots and one Shri Subhash Kumar mentioned at the Sl. No. 28 of the above list was declared successful. On 27. 9. 2005, a contempt petition was filed by the original complainant before this Commission praying for punishing Shri Paramjit Singh Sibia, Chairman of LIT for violating the order of the Fora as also the order dated 5. 8. 2005 and order dated 1. 9. 2005 of this Commission. Two other interim orders were passed by this Commission on 25. 11. 2005 and 21. 3. 2006 calling for relevant information from LIT.

To avoid any technical objection, the original complainant, Shri Tarlochan Singh also filed a Revision Petition No. 832 of 2006 on 5. 4. 2006. In an affidavit filed on 28. 4. 2006, the Chairman of the LIT, Shri Paramjit Singh Sibia stated inter alia that the Complainant's name was not put in the draw of lots, as according to the record of the trust there were no 200 sq. yards plots at that time. The Chairman's affidavit also stated that no allotment letter had been issued to Shri Subhash Kumar Gupta and the plot would be allotted to him only after the decision of this Commission.

7. WE have heard the Counsel for the parties at length and perused the orders of the District Forum and the State Commission and our own interim orders. The above narration of the facts itself shows that the Original complainant had been harassed for over 26 years for allotment of a plot of 200 sq. yards in any of the

schemes of the Ludhiana Improvement Trust, though he deposited an amount of Rs. 1500 as early as in January 1982. The entire episode shows that the working of Ludhiana Improvement Trust reeks with the highest order of mismanagement, lack of transparency and high-handedness. The District Forum passed an order as early as on 4. 3. 1999 with clear direction that a separate draw should be held for the unsuccessful applicants of the earlier schemes within two months from the date of the order. It is worth noting that 25% quota reservation for unsuccessful applicants of the earlier schemes, is a part of LIT's own scheme evolved by it, on its own. The District Forum also directed that if no draw is held within two months, the complainant should be allotted a plot of 200 sq. yards. In spite of the fact that there was a plot of 197 sq. yards in the "475 acres scheme", LIT did not take any step to allot the plot on the technical ground that it is not a 200 sq. yards plot.

8. AFTER the complainant has brought to our notice the fact that out of the list of 47 persons displayed on the notice board in September 2005, none of them except the complainant belonged to the category of old applicants, we asked for a list of the applicants and the basis on which they have been included. No authenticated information has been furnished to us in this regard. From the facts available on record, it appears that the complainant is the only person out of the list who applied in 1981, whereas the rest of them have applied in 1982 or thereafter. Meanwhile on 1. 6. 2007, one Shri Ishwar Singh Walia sought information from the Ludhiana Improvement Trust under the Right to Information Act, 2005, inter alia, whether the Improvement Trust had held separate draw of lots for plots under 25% reservation quota for old applicants. On 25. 9. 2007 in response to the above application Ludhiana Improvement Trust has informed that the Trust has not held any separate draw for 25% reserved applicants and no application for such applicants till date is pending relating to 200 to 250 sq. yards. This once again shows the callous approach of LIT in supply of information under the RTI Act. Further, the response from the LIT has not improved in spite of contempt petition and many interim orders by this Commission. In view of the above discussion, we find that there is no substance in the Revision Petition No. 2106 of 2006. The order of the District Forum, as modified by the State Commission, is confirmed. The plot measuring 190 sq. yards which is available, as offered by the original complainant, Shri Tarlochan Singh, should be allotted to him within two months of receipt of this order. Awarding a cost, however high, against the Improvement Trust cannot adequately compensate for the mental agony and harassment, the complainant has been subject to all these long years. However, in the interest of justice, we award nominal cost of Rs. one lakh and direct LIT to pay the same to the complainant within two months from the receipt of this order. With these observations, the Revision Petitions stand disposed of. Revision Petitions disposed of.