
(1987) 08 DEL CK 0005
In the Delhi High Court
Case No : Civil Writ No. 145 of 1986

Moti Ram	Vs	APPELLANT
New Delhi Municipal Committee		RESPONDENT

Date of Decision : 10-08-1987

Acts Referred:

Citation : AIR 1988 Delhi 57

Hon'ble Judges : Yogeshwar Dayal, J; Mahinder Narain, J

Bench : Division Bench

Advocate : Madan Bhatia, for the Appellant; R.K. Aggarwal and B.J. Nayyar, for the Respondent

Final Decision : Dismissed

Judgement

Yogeshwar Dayal, J.—This order will dispose of five Writ Petitions Nos. 137/86, 138/86, 140/86, 145/86 and 189/86 in which show cause notices were issued to the respondent/Committee as to why these writ petitions be not admitted. The respondent/Committee filed its counter-affidavits.

2. For facility of reference the facts relating to C.W. No. 145/86 - Moti Ram v. N. D. M. C. are being mentioned.

3. In the writ petition, the petitioner has prayed for the following two reliefs :-

"A writ in the nature of mandamus and/or other appropriate writ, order or direction may kindly be issued directing respondent Committee to allot alternative shop/stall to the petitioner in Connaught Place area.

A writ in the nature of prohibition and/or other appropriate writ, order or direction prohibiting respondent Committee from dispossessing the petitioner from the site in suit till such time alternative space is given to the petitioner."

4. The basis for claiming these two prayers" is the allegation of the petitioner that he is squatting in Connaught Place area and the, squatting relates to a period prior to 1957. It is further alleged that in Nov., 1975 respondent

Committee as a part of its drive to clear the squatters from Connaught Place verandahs formulated a policy to rehabilitate them, and conducted a survey to give effect to that policy. It is further stated in the petition that with a view to rehabilitate the squatters the Committee formulated a Scheme vide its Resolution No. 18 dated 27th Jan., 1979 in respect of squatters of "Theatre Communication Building, and Connaught Place area, among others. It is further case of the petitioner that respondent/Committee passed Resolutions from time to time to rehabilitate the squatters in accordance with the settled policy and in this connection reliance was again placed on Resolution No. 18 dated 16th Feb., 1979 and Resolution No. 19(13) dated 20th July, 1979 (Annexures P-2 and P-3 respectively). It is further case of the petitioner that to implement the aforesaid decision, the Committee conducted surveys through its own officials and the last survey was conducted in the year 1979 with a view to ascertain the true situation and decide about, the entitlement of the squatters for allotment of alternative site/shop/kiosk. The petitioner submits that his name appears in the said survey as pre-1957 verified squatter. A copy of the list of verified squatters was filed as Annexure P-4.

5. The case of the respondent/Committee on the other hand is that no policy was framed nor was any promise made for allotment of alternative site/shop/kiosk. It is submitted on behalf of the respondent/Committee that the Committee had rehabilitated those squatters who were verified to be actually squatting in the Connaught Place area in the year 1979 at the time of clearance. The petitioners are not one of those squatters and, therefore, there was no question of considering them for the purpose of allotment of alternative sites. The petitioners cannot equate themselves with those squatters who had been actually squatting after 1957 till 1979, at the time of clearance in the Connaught Place verandahs by the Committee, and who were squatting in Connaught Place verandahs had actually been rehabilitated in the stalls at R. K. Ashram Marg and thereafter some of them were granted accommodation in Palika Bazar. It is also pleaded that the eligibility of the petitioner was checked by the Ad hoc Committee but it was never certified by the Allotment Sub-Committee and thereafter by the N.D.M.C. itself. The main case of the Committee is that the advertisement which was published in the newspaper was issued with a view to assess the magnitude of: squatting problem in N.D.M.C. area and the applications were invited only for that purpose. Annexure P-4 which is a copy of the list of eligible squatters was drawn up by the Ad hoc Committee and this list had to be verified by the Allotment Sub-Committee but it was never so done. This list has no relevancy until and unless it is adopted/approved by the Allotment Sub-Committee. The petitioners exist in this list as pre-1967 squatters and not as pre-1957 squatters.

6. Since no promise was made of any, allotment, the present writ petitions are misconceived.

7. We have gone through the various Resolutions of the Ad hoc Committee and Allotment Sub-Committee.

8. It will be noticed that in the recital preceding the Resolution No. 18 dated 16th Feb., 1979 it is observed as under;-

"The question of rehabilitation of unauthorised squatters in N.D.M.C area has been under consideration for quite some time. In order to find out the magnitude of the problem an advertisement was given in 3 leading dailies inviting applications from all those squatters who have proof of their squatting in N.D.M.C. area prior to 31-12-1967."

9. It is apparent from the recital that the aforesaid resolution was passed by the N.D.M.C. for the purpose of determining the "magnitude of the problem", and it does not contain any promise by the N.D.M.C. in a certain way.

10. The only other way the N.D.M.C. could have promised to act in a certain way would have been in the press-note or advertisement which was published in the newspapers. The petitioners have not produced the press-note or the advertisement in the newspapers, and, therefore, it cannot be said in this state of the record, whether any promise was held out by the N.D.M.C. to act in a certain way.

11. It appears to us that before any promissory estoppel can be raised, there must be a promise or representation to act in a certain way. The petitioners have not shown such promise or representation by the N.D.M.C. in this case. The recommendations of the Allotment Sub-Committee cannot advance the cause as the Sub-Committee of the N.D.M.C. is not a statutory body.

12. It also appears that the Police Department objected to the issuance of teh bazari permissions. By letter dated 9th Oct., 1979, the Deputy Commissioner of Police (HQ) (II) has objected to the teh bazari in certain areas. By another letter dated 22nd Oct., 1979 the Deputy Commissioner of Police, New Delhi, suggested that teh bazari may not be allowed in various areas mentioned in the letter as it causes obstructions to traffic and inconvenience to public. These areas included :-

"1. Rail Bhawan round about;

2. Church Road and around Central Secretariat Complex;

3. Around Regal Building;

4. Around Scindia House;

5. Around Under Ground Market, Connaught Place ;

6. Shankar Market;

7. Around L.I.C. Ground;

8. Any of the circus of Connaught Place, Parliament Street Circus, Baba Kharak Singh Marg Circus, Panchkuian Road, Minto Circus, Barakhamba Circus and Janpath Circus; -

9. Panchkuian Road; and

10. Gole Market."

13. Thereafter the matter was discussed by the Members of the Committee, informally, with the lieutenant Governor of Delhi, and the thinking was that as far as possible no new teh bazari be allowed and in any case no teh bazari be allowed in areas banned by the police. In this context the Committee vide its Resolution No. 34 dated 2nd Nov., 1979 referred the case to Allotment Sub-Committee. The said Resolution reads as under:-

"Problems of unauthorised squatting in various N.D.M.C. Areas.

The squatting problem in the N.D.M.C. area has been under active consideration of the Committee for quite sometime.

To start with a beginning was made by re-organising (and in that process rehabilitating) the squatters by construction of some small structures like kiosks and pan-tharas and it was felt that such constructions would provide the necessary facility at the road side, apart from the help to the poorer section in their rehabilitation. But the experience has been that such programme of rehabilitation resulted also into attracting more and more squatters in the hope of rehabilitation. Even so there remains humanitarian aspect of the problem and to afford such assistance as may be possible to help weaker sections of the society.

To assess the size and implications of the problem, applications were invited in March, 1978 after advertising in the newspapers.

About 1800 applications were received. Later on another 600/700 applications came for teh bazari allotment. More continue to come every day.

An Ad hoc Committee was constituted with Senior Vice-President as Chairman to screen and examine these applications. The Ad hoc Committee suggested some 104 squatters for areas other than Connaught Place. The suggestions of Ad hoc Committee were considered by the Committee on 20-7-1979 (laid on the table). The Committee decided that a survey be got conducted by a team of officers consisting Enforcement Officer, Medical Officer of Health and Senior Architect (New Addl. Chief Architect) to explore the suitable sites keeping in view -

1) the traffic requirements :

2) The policy of Delhi Administration mentioned below conveyed vide minutes of the meeting held at Raj Niwas on 30th June, 1979.

"Lt. Governor also pointed out the proliferation of ugly kiosks in the N.D.M.C. area. These kiosks owners tend to expand their business by occupying areas all round the kiosk thereby taking up the public high way and also certain unhygienic conditions. He wanted the New Delhi Municipal Committee to examine whether to meet the existing demand, some local convenient shopping centres

may be set up where land is available rather than indiscriminately increasing the number of kiosks on the roads."

Selection of possible sites for these squatters is yet to be finalised. In the meantime communications have been received from the Police Department objecting the issuance of teh bazari permissions. By letter dated 9-10-79 Deputy Commissioner of Police (HQ) (II) has objected for teh bazari in Prabhu Market, lodhi Colony, Nirman Bhawan, Maulana Azad Road, Rafi Marg, Krishna Menon Marg, Khan Market, Shankar Market, Chelmsford Road and Connaught Place area. By letter dated 22-10-79 Deputy Commissioner of Police, New Delhi has suggested that teh bazari may not be allowed in the-following areas as it causes obstructions to traffic and inconvenience to public -

1. Rail Bhawan round about;
2. Church Road and around Central Sectt. complex;
3. Around Regal Building;
4. Around Scindia House;
5. Around Under Ground Market, Connaught Place;
6. Shankar Market;
7. Around L.I.C. Ground;
8. Any of the circuses of Connaught Place, Parliament Street Circus, Baba Kharak Singh Marg Circus, Punchkuian Road Minto Circus, Barakhamba Circus and Janpath Circus;
9. Punchkuian Road;
10. Gole Market.

The matter has also been discussed by Members of the Committee, informally, with the Lt. Governor, Delhi.

The thinking was that as far as possible no new teh bazari be allowed and in any case no j teh bazari be allowed in areas banned by the police. In the above context as also considering all aspects of the present sites needs urgent consideration of the Committee.

President has seen the case and has desired that the case may be placed before the Committee through the Allotment Sub-Committee.

COMMITTEE'S Resolved that the case be referred to the Allotment Sub-Committee for consideration."

14. Thereafter no recommendations had been made by the Allotment Sub-Committee.

15. In this view of the matter in the absence of any policy for allotment or any

promise to the petitioners, no writ by way of mandamus, as claimed, can be issued.

16. The result is that the writ petitions fail and are dismissed.