
(2009) 11 DEL CK 0344
In the Delhi High Court
Case No : Writ Petition (C) 3587 of 2007

Narain Singh

APPELLANT

Vs

Govt. of NCT

RESPONDENT

Date of Decision : 06-11-2009

Acts Referred:

Citation : (2009) 11 DEL CK 0344

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : B.S. Maan, Jai Prakash and Hardeep Singh, for the Appellant; Sanjay Kumar Pathak, for the Respondent

Final Decision : Allowed

Judgement

Sanjiv Khanna, J.—The petitioner's land situated in village Masoodpur was acquired by three different awards, the last being award dated 22nd December, 1980. After receiving compensation in 1986, the petitioner applied for allotment of alternative plot under the scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961. The application was filed within the time as per the applicable scheme on the relevant date.

2. The respondents after receiving the application called upon the Land Acquisition Collector to confirm and furnish details on the compensation amount paid to the petitioner. The Land Acquisition Collector by his letter dated 9th February, 1987 furnished the relevant information.

3. It is the case of the petitioner that in August, 1994 he came to know that the file was closed on the ground that the petitioner had not furnished the relevant documents pursuant to letter dated 7th October, 1991. It is the case of the petitioner that he had not received the letter dated 7th October, 1991. The respondents have, however, not placed on record the letter dated 7th October, 1991 and proof of service of the said letter. The respondents have brought the original records but have not produced before this Court proof of service or any

document to show that the said letter was sent at the correct address. What is equally important is the fact that the petitioner on 25th August, 1994 had made a request to the respondents to re-open the file. The respondents admit this application/request. It is also admitted that the petitioner on 2nd September, 1994 had submitted passport size photographs, attested photocopy of the ration card and specimen signatures, etc. Thereafter, the respondents had called for a report from the Land Acquisition Collector, which was furnished by the Land Acquisition Collector on 21st November, 1994. The petitioner thereafter received call letter dated 19th December, 1994 and claims that he had appeared before the respondents in the last week of December, 1994 and submitted an affidavit in terms of the prescribed form.

4. The respondents then, for which there is no explanation, kept quiet about 3 years and in April, 1997 the petitioner was called for clarification. The petitioner appeared before the respondents on 30th April, 1997 and furnished relevant documents. The petitioner wrote a request letter/application dated 21st September, 1998 with the request that the application for alternative allotment should be processed expeditiously.

5. On 25th January, 2000, the respondents issued notice to the petitioner to furnish documents, which the petitioner had already furnished. The petitioner responded to this letter on 10th March, 2000 stating that all documents mentioned in the said letter had already been furnished. A reminder dated 4th April, 2000 was also sent.

6. The petitioner, however, did not hear any response from the respondents and in February, 2006 the petitioner's son moved an application under the Right to Information Act, 2005 regarding the status of the petitioner's file. On 3rd May, 2006, the petitioner's son was informed that the request of the petitioner for re-opening of the case was still pending consideration and no documents were required to be filed by the petitioner.

7. The petitioner kept on approaching the respondents without success and then filed W.P. (C) No. 18068/2006 in this Court. This writ petition was disposed of on 17th January, 2000 with the direction to the respondents to decide the case of the petitioner within one month.

8. By the impugned order dated 16th April, 2007 now passed by the respondents, the re-opening application of the petitioner has been dismissed with the observation that the department is not re-opening any closed case since 2000 and there is no change in circumstances of the case of the petitioner. The respondents have also filed an additional affidavit stating, inter alia, that a policy decision was taken by the Lieutenant Governor on 11th October, 1998 that closed cases should not be considered for re-opening, where an applicant submits requisite documents. This policy was taken as allotment of plots cannot be stretched to cater to the demands made for allotment of plots belatedly and after a long gap of time.

9. As noticed above, the petitioner had made an application for re-opening of the closed case in 1994, four years before the policy decision was taken on 11th October, 1998. In normal course, the respondents should have disposed of and decided the application for re-opening within a reasonable time much before 11th October, 1998. As noted, the respondents had adopted policy dated 11th October, 1998 as claims for allotment, alternative plot cannot be stretched and delayed. Inaction and delay by the respondents in acting upon and considering the application for re-opening from 25th August, 1994 till 11th October, 1998 is not justified. All along, the petitioner has been writing and corresponding with the respondents from 1994 onwards under the hope that his application is still being processed. I do not think in 2007 the respondents can now turn around and say that the entire exercise undertaken by the petitioner right from 1994 onwards is rendered fruitless because four years after the petitioner had made an application for re-opening, a policy decision was taken not to re-open the closed cases. The delay, therefore, in disposal of the application for re-opening after it was filed in August, 1994 till October, 1998 was due to the fault of the respondents and the petitioner cannot be penalized and punished for the same.

10. In view of the aforesaid, the writ petition is allowed and the respondents are directed to consider the application for allotment of alternative land/plot on merits in accordance with law without being influenced by the policy decision dated 11th October, 1998. The application of the petitioner will be disposed of within a period of two months from the date copy of this order is received. In the facts and circumstances of the case, there will be no order as to costs.