

(2001) 02 DEL CK 0025

In the Delhi High Court

Case No : Civil Writ Petition No. 3779 and CM. 6602 / 96

P.R. Dutta Gupta

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 13-02-2001

Acts Referred:

Citation : (2001) 4 AD 1091 : (2001) 92 DLT 391 : (2001) 59 DRJ 571

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. Ranjan Mukherjee, for the Appellant; Mr. K.K. Sud, A.S.G., Mr. N.K. Pandey and Ms. Sangeeta Bharti, for the Respondent

Judgement

Manmohan Sarin. J. (Oral)

1. Rule.

Petitioner has filed this writ petition seeking a writ of mandamus against respondents to allot him a plot of land in the Chittaranjan Park, New Delhi being a refugee, who had migrated from East Pakistan now Bangladesh.

2. The case of the petitioner is that he had migrated from Bangladesh in the year 1946 and was living sometime in Calcutta and sometime in Delhi. Petitioner claims that he duly satisfies the eligibility criteria for allotment as per the press note of 4.1.1996 and the subsequent press note of 14.1.1977. As per the press note of 14.1.1977, there were few plots available with the Rehabilitation Department in the 160 Sq. yards and 233 Sq. yards categories. The said plots were to be allotted on perpetual lease basis with the premium, as indicated in the press note. The press note also gives the following conditions of eligibility:

- i) The applicant should be more than 21 years of age on the date of application.
- ii) The applicant or his wife/husband or any dependent member of his family, including unmarried daughters does not own any house or residential plot anywhere in India.

iii) The applicant is gainfully employed in the Union Territory of Delhi in any service/occupation or has been gainfully employed and has lived in Delhi at least for 4 years after partition up to 31st March, 1966.

iv) The applicant is a bonafide displaced person from erstwhile East Pakistan, now Bangladesh.

The last date of receipt of application in terms of the press note was 31.3.1977.

3. Petitioner's case in the writ petition is that he applied sometime in October, 1977. However, during the course of hearing, learned counsel for the petitioner has handed over a photocopy of an application dated 6.3.1977. Learned counsel submits that it was with this application that the petitioner had submitted his request for allotment. The said application does not carry any acknowledgment.

4. There were about 1606 applicants, who applied for allotment of plots in pursuance to the press note of January, 1977. On scrutiny, 794 of them were found to be in order. 80 applicants were initially allotted plots leaving a balance of 714 applicants. On 9.4.1985, the Ministry of Works and Housing decided that based on resolution of DDA dated 23.9.1983, 714 remaining plots be allotted to eligible displaced persons by DDA on terms stated. The land in question was also handed over to DDA. The list of eligible persons was enclosed and DDA was to allot after obtaining affidavits from the eligible persons of their continuing to be eligible. Petitioner claims to have made a number of representations for allotment of a plot from 21.4.1987 and followed them up with representations to various high functionaries including the Minister of Urban Development and Prime Minister but to no avail. Petitioner claims that his case had been kept under consideration all this while.

5. It may be noted that notice to show cause was issued on 3.10.1996. Union of India was impleaded on 10.2.1997. Vide interim order dated 6.5.1998 one plot was reserved for the petitioner. Respondents have filed their counter affidavits. In the counter affidavit, respondent/UOI has taken the plea that the petitioner failed to apply in terms of the press notes. In fact, the case of the respondent/UOI is that they do not have on record either the petitioner's application of 6.3.1977, as handed over during the court hearing, or the alleged application of October, 1977. It is claimed that petitioner had failed to apply in terms of the press note. It is only subsequently after a gap of nearly 10 years that the petitioner from the year 1987, started making these representations for being allotted a plot.

6. I have heard the learned counsel for the parties and have perused the record. Petitioner has not been able to establish before the Court that he had applied either under the 1966 Press note or in pursuance to the press note, issued on 14.1.1977. Photocopy of the application dated 6.3.1977 does not inspire any confidence. It has no acknowledgement and is not available on record. It does not even find a mention in the petitioner's correspondence. On the other hand, learned Additional Solicitor General has submitted that the application was an

attempt to take advantage of another person, Mr. P.R. Gupta, who appeared at S.No. 42 of the list of applicants, whose application was pending allotment. The said person's full name is Sh. Prakriti Ranjan Gupta son of late Sh. Lalit Behari Dutta Gupta while petitioner's name is P.R. Dutta Gupta son of Sh. M.R. Dutta Gupta. The petitioner having failed to apply in accordance with the Press note cannot claim to be entitled to a plot as a matter of right.

7. Be that as it may, the situation that has now emerged is that respondent/UOI, as of now, has about 16 plots available for allotment. The case of the respondent/UOI is that out of 794 applicants, which were found to be in order, 80 were allotted plots. The land in respect of the remaining 714 applicants was transferred to DDA and the said 714 applicants were also allotted plots by DDA. After this phase of allotment, 16 plots are still available. There are large number of applicants, who could not apply in pursuance to the press note. the applicants, who were either not eligible under the press note or in whose case there was some delay or other deserving applicants have sought allotment for these 16 plots on the basis of discretionary allotment. Respondent/UOI has taken a decision not to allot any plot out of these 16 plots to these aspirant but rather have a public auction for the same. The said decision has been challenged in writ petition bearing No. 2527/98, filed by the Association of East Pakistan Displaced Persons. In the said writ petition, vide on interim order, auction was allowed to proceed but bids were not to be finalised. The said writ petition is listed on 23.4.2001 for disposal.

8. In view of the foregoing discussion, it clearly emerges that the petitioner had not applied in accordance with press note dated 14.1.1977 to be considered for allotment. This position is fortified even from the petitioner's own correspondence where the allotment is sought on the basis of the petitioner being otherwise a deserving case. There is also no mention in any of the correspondence of his application dated 6.3.1977. Moreover, the respondents have already taken a decision that the remaining 16 plots are to be allotted by public auction. The said decision is subject matter of CW. No. 2527/98.

At this stage, learned counsel for the petitioner makes a prayer that in the even of auction of the said 16 plots being set aside by the Court, respondents should then consider petitioner's case for allotment. The request is wholly pre-mature and no such direction can be given.

9. The writ petition is dismissed.