

(2014) 08 DEL CK 0151
In the Delhi High Court
Case No : Writ Petition (Civil) 12649/2009

Santosh Rani

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 26-08-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100

Citation : (2014) 145 DRJ 115

Hon'ble Judges : Vibhu Bakhru, J

Bench : Single Bench

Advocate : Rachna Aggarwal, Advocate for the Appellant; Navratan Chaudhary, T. Pongener and Seema Dolo, Advocate for the Respondent

Judgement

Vibhu Bakhru, J.—The petitioners claim to be residents of State of Punjab who had migrated to Delhi on account of terrorism in that State. The petitioners have filed the present writ petition, inter alia, praying for a direction to the respondents to allot appropriate accommodation to the petitioners in accordance with the policy framed for the Punjab Migrant families.

2. By an order dated 23.10.2013, this Court recorded that out of 24 petitioners, 18 petitioners had already been allotted flats by DDA. The names of four petitioners did not find mention in the list of Punjab Migrants and two petitioners including petitioner no.1 was not granted the accommodation as it was alleged that they were not residing in the designated camp at Mori Gate. The Court also noted that the present petition is pursued only by petitioner no.1. In the circumstances, the scope of the present petition is limited to the relief claimed by petitioner no.1.

3. The controversy to be addressed in the present petition is whether petitioner no.1 (hereinafter referred to as the "petitioner") is eligible for allotment of a flat under the "Housing Scheme for Rehabilitation of Punjab Migrants" framed by respondent no.5 (DDA) . In terms of the said policy, 3661 built up/under construction flats, being one room sets, were offered for allotment to persons

who had migrated from Punjab in the wake of militancy and were staying at the designated refugee camps. The eligibility condition as specified in the scheme reads as under:-

"Eligibility

(i) The applicant must be a person of one family who had migrated from Punjab and is staying in the designated 07 refugee camps. This should be certified by the Dy. Commissioner of the concerned District in which the camp of the applicant is situated."

4. The DDA filed a counter affidavit stating that the said eligibility condition was not satisfied in the case of the petitioner as the necessary certificate certifying the petitioner no.1 to be a resident of the concerned camp was not provided by respondent no.2 (Govt. of NCT) in favour of the petitioner.

5. The counter affidavit affirmed on behalf of the Govt. of NCT indicates that as per the records, 139 Punjab migrants were provided tented accommodation in Youth Club, Mori Gate Camp, which was one of the designated camps for the purposes of allotment of flats by DDA. It was stated that cases of only 115 Punjab migrants (out of 139 Punjab migrants resident at Mori Gate Camp) were recommended for allotment of flats.

6. It was stated that the case of the petitioner was not recommended because of a report submitted by an Inspection Committee. The statement annexed to the counter affidavit indicates that the petitioner, a resident of Tent No.2, Youth Hostel, Mori Gate and listed at serial no.95 of the Punjab Migrant's List, was not allotted a flat. The remark made against the name of the petitioner reads as under:-

"Suit No.227/1998, titled as "Santosh Rani v. Union of India" is pending in the Court of Sh. Prashant Sharma, Senior Judge, Tis Hazari Courts, on the same ground."

7. The learned counsel for the petitioner submitted that the petitioner had filed a suit for claiming subsistence allowance which was disbursed for a limited period but had been, subsequently, withheld by Govt. of NCT. As some issues were decided against the petitioner by the Trial Court in that suit, the petitioner filed an appeal (RCA No.8/10) before the Additional District Judge, Delhi titled as "Santosh Rani v. Union of India". By its order dated 17.07.2012, the Appellate Court allowed the said appeal and the question whether the petitioner is a Punjab Migrant was settled in favour of the petitioner. It was stated that an appeal (being RSA No.32/2013) filed under Section 100 of CPC against the said decision was also dismissed by this Court by an order dated 05.03.2014.

8. The learned counsel for the petitioner contended that annexure to the counter affidavit filed on behalf of Govt. of NCT indicated that pendency of the suit filed by the petitioner was the only reason because of which the case of the petitioner was not recommended. It was submitted that since the petitioner had prevailed

in the said litigation, it was no longer open for Govt. of NCT to contend that the petitioner was not an eligible Punjab Migrant.

9. The learned counsel for the respondent contended that the petitioner was not allotted a flat under the Housing Scheme as it was found that she was, unauthorisedly, residing in Tent No.2 at the Mori Gate Camp. It was contended that since the petitioner was an unauthorised occupant of the said tent which was allotted to one Poonam, the petitioner could not be allotted any accommodation under the scheme in question.

10. I have heard the learned counsel for the parties at length.

11. This Court had, by an order dated 23.10.2013, directed the Sub- Divisional Magistrate, Civil Lines to verify the claim of the petitioner in terms of the scheme framed by the Government for allotment of flats to Punjab Migrants by the DDA. In terms of the said order, SDM (North) filed a report in this Court on 21.12.2013. It was reported that complaints were received that the petitioner was, unauthorisedly, occupying Tent No. 2 at Mori Gate, refugee camp and on scrutiny it was found that the said tent was allotted to one Smt. Poonam. It was also reported that the issue whether the petitioner was a genuine Punjab migrant was pending consideration by this court in Appeal No.32/2013 titled as "Govt. of NCT of Delhi v. Santosh Rani and Anr". It was further informed that the petitioner had managed to obtain a temporary Ad hoc monthly relief of Rs. 1000/- per month on the basis of her being a Punjab migrant; the said relief was stopped from 17.12.1990 to 16.11.1995 after receiving a report dated 29.11.1990 from the Department of Relief and Settlement, Punjab Govt. which stated that the petitioner was not affected by terrorism. The SDM further reported that "On further inquiry a letter dated 14.3.1995 was received from Deputy Commissioner, Jalandhar, stating that the petitioner No.1 stayed in Gandhi Vanita Ashram, Jalandhar, from 22.10.1984 to 15.7.1988 and that she shifted to Delhi due to fear of terrorists. That on the basis of the said letter the AMR was restored from 17.11.95."

12. It is apparent from the aforementioned report that the petitioner was residing at Mori Gate Camp. It is also apparent that the petitioner was a Punjab Migrant and it is on this basis that the petitioner was provided a monthly relief of Rs. 1,000/-. The above mentioned report also indicates that the ad hoc monthly relief was discontinued and, thereafter, resumed after it was verified that the petitioner was a victim of terrorism in Punjab.

13. The judgment in Santosh Rani v. Union of India: RCA No.8/10, decided on 17.07.2012 settled the issue whether the petitioner no.1 is a Punjab migrant. The said judgment recounts that the petitioner was residing at Jalandhar and her son had been kidnapped by terrorists. She had migrated to Delhi and being a migrant from Punjab, was given a monthly subsistence allowance of Rs. 1,000/-. The claim of the petitioner was contested by Govt. of NCT of Delhi by stating that the petitioner had arrived at Delhi from Sirsa, Haryana and had resided at

different places with her relatives and finally shifted to the Mori Gate Camp and occupied the accommodation allotted to Ms. Poonam. The petitioner had led evidence in support of her claim and had produced documents which indicated that she was a resident of Punjab and had migrated on account of militancy in that State. The decision of the Trial Court that the petitioner was not entitled to arrears of maintenance was set aside. The Appellate Court had further noted that the petitioner had been accepted as a Punjab Migrant and the contrary stand of the Govt. of NCT of Delhi was not accepted. It is noted that the second appeal (RSA No.32/2013) preferred by Govt. of NCT of Delhi against the aforementioned decision, under section 100 of CPC, has been dismissed by this Court.

14. In so far as the issue of the petitioner being a Punjab migrant is concerned, the decision of the Additional District Judge in Santosh Rani v. Union of India (supra) puts the same at rest. The second limb of the eligibility condition i.e. that the Punjab migrant should be resident in one of the designated refugee camps, is also not in dispute. It is an admitted position that the petitioner was residing in Tent No.2 at the Mori Gate Camp. Although, there is some controversy whether her occupation of Tent No.2 at the said camp was authorized or not, the same is not germane as it is established that the petitioner no.1 was a Punjab migrant residing in a designated refugee camp. And, in my view, the eligibility of the petitioner no.1 for an allotment of flat under the "Housing Scheme for Rehabilitation of Punjab Migrants" is, thus, established.

15. Accordingly, the respondents are directed to extend the benefit of the housing scheme for Punjab migrants to the petitioner no.1 and allot a flat to her in terms thereof .

16. The writ petition is, accordingly, allowed with no order as to costs.