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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 23<sup>rd</sup> July, 2025**Pronounced on: 17<sup>th</sup> September, 2025*

+ W.P.(C) 2137/2015

SURENDER KUMAR

.....Petitioner

Through: Mr. L.B. Rai, Mr. Vineesh Tyagi and  
Mr. Satvik Rai, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS. ....Respondents

Through: Mr. Abhinav Singh, Mr. Anant Kumar  
Jain, Ms. Neeshu and Mr. Amit  
Madhwal, Advocates for GNCTD.  
Mr. Tarun Johri and Mr. Vishwajeet  
Tyagi, Advocates for R-2/DMRC.  
Mr. Sunil Kumar Jha and Mr. M.S.  
Akhtar, Advocates for R-3/L&B.**CORAM:****HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.**

1. The present writ petition under Article 226 of the Constitution of India seeks the following prayers-

“ (i) An appropriate writ/direction may kindly be issued in favour of the petitioner and against the respondents, thereby quashing the order No. DMRC/CPM/DW/PH-II/2005/Land/06 dated 12.02.2013 of Shri Manoj Vajpayee E/W-3 of the Delhi Metro Rail Corporation, herein **Annexure-D**, thereby rejecting the application dated 02.12.2011 of the



petitioner for allotment of alternative shop under the Scheme of the Govt. in lieu of the acquired land and shops of the petitioner, on the ground that the committee has scrutinized the application and the case of the petitioner has not been found eligible for allotment on account of shop reflected closed in both survey and valuation report of PWD.

- (ii) An appropriate writ/direction may kindly be issued in favour of the petitioner and against the respondents thereby directing the respondents 1 & 2 to reconsider the application of the petitioner dated 30.10.2013 or its earlier application dated 02.12.2011 for the allotment of the alternative shop under the scheme of the Govt. to rehabilitation those who were effected from the DMRC Project at Mundka Metro Station, and grant him the opportunity to prove his case for the allotment of the alternative shop in lieu of the acquired two shops and the land of the petitioner under the law and
- (iii) An appropriate writ/direction/order be issued in the nature of mandamus in favour of the petitioner and against the respondents, thereby directing the respondent Nos. 1 and 2 to allot the alternative shop to the petitioner in lieu of the acquired two shops and the land of the petitioner under the law.
- (iv) To issue any other appropriate writ or directions as this Hon'ble Court may deem just and proper in the facts and circumstances of the case in favour of the petitioner and against the respondents, in the interest of justice."

## **FACTUAL BACKGROUND**

2. Facts necessary for the disposal of the present petition are as follows: -



- i. The petitioner is stated to be the owner of land bearing Khasra No. 246, measuring area 7 biswas, having a share of 1/7<sup>th</sup>, i.e. 50 sq. yards at NH-10, Main Rohtak Road, in village Mundka, District Western Delhi. The petitioner claims to have been running a Tourist office under the name entitled, “Jai Dada Bhairo Bus Service and Tourist Office”.
- ii. The said shop along with land in village Mundka, was acquired, *vide* Awardno. 3/DC(W)/2008-09 announced on 23.05.2009 under Section 4 of Land Acquisition Act, 1894 *vide* notification No. F.7(21)/05/L&B/LA/ MRTS(W)/16141 dated 31.01.2007 for the purpose of construction of entry/exit and traffic integration of the Inderlok-Mundka Corridor of Delhi MRTS Project, Phase II, near Bus Stand Mundka and East of Rani Khara Road (Mundka Station). The possession of the land was transferred to the Government Department on 24.04.2008.
- iii. Since the petitioner was a shareholder in the acquired land, a compensation of Rs.4,56,794/- with TDS deducted @ Rs. 50,755 of the awarded land was paid to him on 17.08.2010. The copy of the payment certificate, F.NO. LAC (W)/ Payment certificate /2011/9400 dated 16.12.2011 was issued by the Office of Deputy Commissioner (West) to the petitioner.
- iv. The petitioner had filed an application for allotment of alternative plot in lieu his shop being acquired dated 02.12.2011. The application was



subsequently rejected by the Delhi Metro Rail Corporation Ltd. (DMRC) as the petitioner's shop was reflected to be closed in both survey and valuation report of PWD *vide* letter no. DMRC/CPM/Dw/PH-II/ 2005/Land/06 dated 12.02.2013.

- v. By way of an application dated 23.06.2014 to the Deputy Chief Engineer, DMRC and the Chief Engineer of P.W.D for reconsideration of the above-mentioned application dated 30.10.2013, the petitioner filed for allotment of alternative shop under the *Relocation and Rehabilitation policy in respect of project affected persons of all categories due to the implementation of the Delhi MRTS projects* by the Land and Building Department, GNCTD. Hence, the present petition.

### **SUBMISSIONS ON BEHALF OF THE PETITIONER**

3. Learned counsel for the Petitioner has made the following submissions in support of the present petition: -

- i. The action of the respondents in rejecting the application of the petitioner for an allotment of an alternative shop in lieu of the acquisition of his land and the shops is against the Principles of Natural Justice as the petitioner has not been given any opportunity till date to present his case before the committee.



- ii. The petitioner is without any accommodation and has been deprived of his legitimate right of earning without the allotment of the alternative shop under the scheme of *Relocation and Rehabilitation policy in respect of project affected persons of all categories due to the implementation of the Delhi MRTS projects*. The family of the petitioner is dependent upon him is made to suffer unnecessarily and have been put to unnecessary harassment and mental tension and agony by the respondents.
- iii. The decision of the committee that the petitioner is not eligible for allotment as the shop was reflected to be closed in both survey and valuation report of PWD, is without fair consideration of the Policy and the report of the Surveyor as it is not on the basis of the proper enquiry of the site.
- iv. Neither the respondents nor the committee constituted for the allotment of alternative plots in lieu of the acquired land and shops of the petitioner, gave any opportunity to the petitioner for presenting himself to prove his case and contention that he was running the business in the shop. The petitioner submits that the shops were found closed at time of survey as he could not open the same due to family problems.
- v. The respondents had not informed the petitioner about the rejection of his application as no letter was ever served on the petitioner at all. It is only on the information supplied under RTI, that the petitioner came to know about the said rejection of his application on the false report of the Surveyor that the shops are lying closed and without hearing the



petitioner or giving him an opportunity of being heard in person and to prove his contention.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENTS**

4. Refuting the submissions made on behalf of the Petitioner, learned counsel for the Respondents has made the following submissions: -

- i. The respondent no.2/ the Deputy Chief Engineer, DMRC submits that the petition is not maintainable as the petitioner has not placed on record any document to show that he was carrying out a business in the premises in question. Moreover, the respondent no. 2 submits that the Government of NCT of Delhi issued guidelines for relocation and rehabilitation of project affected persons *vide* circular no. MKTS/ 64/ TPT/ 2000-PT/ File/ 291-305 dated 31.01.2002 and No. F.123/01/ L&B/ WC/ 11554-581 dated 25.10.2006. In this regard, the Petitioner could only approach the ADM/LAC/West to consider the request for alternative allotment.
- ii. The petitioner was not found to be entitled to allotment of any alternate shop as the said shop was found to be closed during the relevant period, which was at the time of acquisition proceedings and valuation visits. The incident of closure of shop was recorded by the Land Acquisition Collector, District West, Delhi *vide* Award No.03/DC(W)/2008-09 dated 19.05.2009.



- iii. The respondent no.2 submits that the petitioner should have raised his grievance qua recording of closure of shop by Land Acquisition Collector in the Award passed under Section 11 of Land Acquisition Act,1894 before Ld. Reference Court under Section 18 of the Act which the petitioner failed to do so.
- iv. The respondent no.2 submits that the electricity bills for the months of January, 2007, June, 2007 and; October, 2007 would establish that the shop belonging to the Petitioner was not used for any business and was closed during the relevant period of time, in as much as, the said electricity bills are of Rs.41.30, Rs.93.50 & Rs.41.26 respectively. The electricity bills indicate that the electricity was being used by the petitioner for residential and not for commercial purposes.
- v. They further submit that the Relocation and Rehabilitation Policy notified by Govt. of NCT of Delhi entitles only the Project Affected Shopkeepers, doing business. The Petitioner is not a Project Affected Shopkeeper, doing business in his shop and therefore, is not entitled to allotment of an alternate shop in terms of the Policy Guidelines issued by GNCTD.
- vi. The Land Acquisition Collector (West) submits that the petitioner has not made any application to the ADM/LAC(West).



## **ANALYSIS AND FINDINGS**

5. Heard learned counsel for the parties and perused the records.
6. At the very outset, learned counsel for the petitioner drew the attention of this Court to the circular dated 25.10.2006 issued by Land and Building Department, GNCTD, laying down policies/guidelines for “*Relocation and Rehabilitation of the Project Affected Persons of all categories due to implementation of Delhi MRTS Projects*”, and in particular to the following paragraphs;

### **“(1) Eligibility conditions for being covered under Relocation/Rehabilitation Policy.**

- a. The guidelines on Relocation &, rehabilitation policy for project affection persons will be uniformly applicable for all pleases of MRTS Project.
- b. Those whose shops / residences or workshops / industrial units got affected in such a manner that they have to leave the said premises. In case of premises where only small part, (less than 50%) has been taken, will not be eligible for rehabilitation under this scheme.
- c. In case of shops, the persons doing business, whether he is the owner of land or the tenant, will be eligible.
- d. In case of promises being used as residential units the rehabilitation will take place only in case of owner residing there. The tenants will not be eligible under the scheme.



e. The treatment in respect of workshops / industrial units would be the same as those of industrial shops indicated above.”

7. Learned counsel for the petitioner submits that the case of the petitioner is covered by para-1(b) of the aforesaid guidelines and, therefore, the allotment of alternate site ought to have been granted to the petitioner. It was further submitted that similarly situated people had been given alternate shop, whose affidavits have been placed on record to demonstrate the same. It was argued on behalf of the petitioner that the reasons for not allotting the alternate shop to the petitioner that his shop was not running at that particular point of time is not relevant for the aforesaid rule. It was further submitted that the report of the Surveyor was not on the basis of the proper enquiry of the site. The documents have been placed on record to demonstrate that the petitioner was running his office from the said shop.

8. On the other hand, in the counter affidavit filed on behalf of Land Acquisition Collector (West), it is stated as under:

“5. That the land comprised in khasra No. 246(0-7) situated in village Mundka was notified vide notification dated 31.01.2007 issued under section 4 'of the Land Acquisition Act, 1894 followed by declaration issued under section 6 dated 31.01.2007 and award No. 03/c DC(W)/2008-09 dated 19/05/2009. The purpose of acquisition was 'Construction of Entry/Exit and Traffic Integration of Inderlok Mundka Corridor of Delhi MRTS Project, Phase-II, near Bus Stand Mundka and East of Rani Khara Road (Mundka Station). The Physical possession of the land was taken on 24/04/2008. Mr. Surender Kumar S/o Sh. Rati Ram was shareholder in the acquired land and the Compensation of the land Rs. 4,56,794 was paid to him vide cheque No. 312709 dated 17.08.2010.



6. That the application dated 02.12.2011 filed by the petitioner with Respondent no. 2 for alternative allotment was rejected on the ground that the name of the petitioner was not listed for allotment of alternative shop. The same fact was intimated to the petitioner vide letter no. DMRC/CPM/DW/PH-11/2005/06 dated 12.02.2013

7. That from the letter dated 12.02.2013, it is clear that the application of the petitioner was scrutinized by the committee and the application of the petitioner was rejected on the grounds that survey and valuation conducted by the PWD showed the shop as closed and the petitioner was intimated accordingly by Respondent No. 2 vide above mentioned letter dated 12.02.2013. The petitioner was further requested to contact the PWD office of his area in this regard.

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9. That the DMRC had rejected the claim of the applicant for the allotment of shop on the account that the shop reflected closed in both the survey and valuation report prepared by the PWD. In this regard it is submitted that the valuation report of PWD dated 24/02/2007 mentions petitioner's shop as closed shop."

9. In compliance of order dated 19.09.2023, a further short affidavit on behalf of the respondent no.1/ Public Works Department (PWD) was filed, wherein it is recorded as under:

"3. That the application dated 02.12.2011 filed by the petitioner with Respondent no. 2 for alternative allotment was rejected on the ground that the name of the petitioner was not listed for allotment of alternative shop. The same fact was intimated to the petitioner vide letter no. DMRC/CPM/DW/PH-II/2005/06 dated 12.02.2013 (**Copy enclosed**).



4. That the said application was scrutinized by the committee and the request of the petitioner was rejected on the grounds that survey and valuation conducted by the PWD showed the shop as closed and the petitioner was intimated accordingly by Respondent No. 2 vide above mentioned letter dated 12.02.2013.”

10. During the pendency of the aforesaid proceedings, an additional affidavit dated 22.04.2024, was filed on behalf of respondent no.2/ Delhi Metro Rail Corporation Ltd. (DMRC), wherein, it is stated as under:

“3. I say that the Petitioner is not entitled to allotment of any alternate shop, as the said shop was found closed during the relevant period i.e. at the time of acquisition proceedings/survey and valuation visits. The factum of closure of the shop was duly recorded by the Land Acquisition Collector, District West, Delhi in Award No.03/DC(W)/2008-09 dated 19.05.2009. The Award (**Pg.94 of Petition**) recorded that, “**The valuation of the structures Registered Valuers and the same was vetted by PWD, Division-VI, Government of NCT of Delhi**”. Further, the Award notes that the Land under Acquisition is a part of extended Lai Dora of Village, Mundka. However, the interested person have not enclosed any relevant records of obtaining approval regarding compliance of building by laws from MCD, therefore, the structures cannot be considered to be, authorised. A copy of the letter dated 06.11.2007 issued by Public Works Department Delhi is attached hereto and marked as **Annexure R-2**.

4. I say that the electricity bills (**Pg.48 to 53 of Petition**) for the month of January, 2007, June, 2007 & October, 2007 would establish that the shop belonging to the Petitioner was not used for any business and was closed during the relevant period of time, in as much as, the said electricity bills are of Rs.41.30/-, Rs.93.50/- & Rs.41.26/- respectively. Further, the electricity bills (**Pg.54 to 57 of Petition**) pertains to the Year, 2003, which are not relevant for the purposes of determining the eligibility of the Petitioner for alternate shop.



5. The Stage Carriage Permits (**Pg.31 to 38 of Petition**) issued by State Transport Authority, Delhi pertains to House No.494, Village Mundka, Delhi whereas, the electricity bills pertains to P. No.06, Khasra No.246, Mundka, Delhi. Thus, the Stage Carriage Permits pertains to a different property and not the Shop No. P. No.06, Khasra No.246, Mundka, Delhi. Similarly, the bills enclosed (**Pg.58 to 61 of Petition**) are self-generated documents of the Petitioner which do not establish the business being run/operated from the acquired shop.

6. I say that a perusal of the Affidavits dated 04.02.2020 (**Pg.120**) would also establish that Petitioner was not running/operating any business from the shop in question. Rather, the electricity connection on the said shop was being used by other shop owners. Further, a perusal of electricity bill (**Pg.145**) would establish that the electricity is being used by the Petitioner for residential purposes and not for commercial purposes.

7. I say that the Relocation and Rehabilitation Policy (**Pg.109 of Petition**) notified by Govt, of NCT of Delhi entitles only the **Project Affected Shopkeepers, doing business**, whether he is owner of land or tenant. In the instant case the Petitioner is not a Project Affected Shopkeeper, doing business in his shop and therefore, is not entitled to allotment of an alternate shop in terms of the Policy Guidelines issued by Govt, of NCT of Delhi.

8. The Petitioner ought to have raised his grievance qua recording of closure of shop by LAC in the Award passed under Section 11 of LA Act, before Ld. Reference Court under Section 18 of LA Act. However, having failed to raise any grievance before the Reference Court, the Petitioner cannot be allowed to challenge the Award before this Hon'ble Court.”



11. Subsequently, in pursuance of order dated 31.01.2025, respondent no. 2/Delhi Metro Rail Corporation Ltd. (DMRC), filed an affidavit dated 03.04.2025, relevant portion of which reads as under:

“3. That the Joint Survey Report and Valuation Report of the Property carried out by approved Govt. Registered Valuer and duly vetted by PWD for construction of Mundka Metro Station of Inderlok-Mundka Corridor of Delhi MRTS Ph-II, evidences the subject property to be closed. **On the basis of Valuation Report and Survey, the shop marked as "Bhairo Tourist" is shown as closed in the Valuation of Properties at Sr. No.30-35 and valuation assessed is Rs.2,71,061.64/- in Award No. 03/DC(W)/2008-2009, Village Mundka.”**

**(emphasis supplied)**

12. The sole contention raised on behalf of the petitioner is that his case for allotment of alternate shop is covered under Rule-1(b) as noted hereinabove. However, the stand of the respondent is that the aforesaid relocation and rehabilitation policy entitles only to “project affected shopkeepers, doing business”. It is the case of the respondent that as per the survey and valuation report, the petitioner was not a project affected shopkeeper doing business in his shop and therefore, was not entitled for an allotment of alternate shop in terms of the aforesaid guidelines.

13. On a closure examination of the eligibility criteria in aforesaid policy, the following inferences can be drawn;



***a. The guidelines on Relocation &, rehabilitation policy for project affection persons will be uniformly applicable for all pleases of MRTS Project***

The scheme is applicable to affected persons for all phases of MRTS Project.

***b. Those whose shops / residences or workshops / industrial units got affected in such a manner that they have to leave the said premises. In case of premises where only small part, (less than 50%) has been taken, will not be eligible for rehabilitation under this scheme***

This covers in general all those persons whose shops/residence or workshops/industrial units got affected in such a manner that they had to leave the said premises. However, an exception to that is, if only a small part, (less than 50%) has been taken and the occupant continues to reside work from there then, he/she will not be eligible for rehabilitation under the Scheme.

***c. In case of shops, the persons doing business, whether he is the owner of land or the tenant, will be eligible.***

This clause further qualifies the category of “shops” which would be entitled for relocation. A plain reading of the same reflects that eligibility for an allotment of an alternate shop would be only available if the person is doing business from the “shop” which was acquired, whether he is the owner or the tenant.



**d. “In case of premises being used as residential units the rehabilitation will take place only in case of owner residing there. The tenants will not be eligible under the scheme.”**

This clause further clarifies clause (b) in case of “premises”. It provides that the rehabilitation will take place if the owner is residing there and tenants will not be eligible under the said scheme.

**e. “The treatment in respect of workshops / industrial units would be the same as those of industrial shops indicated above.”**

This clause further clarifies clause (b) with respect to workshops/industrial units. The same principle as applicable in case of industrial shops as indicated in clause (c) would be applicable.

**14.** Thus, a clear distinction has been made out in the aforesaid policy in cases of “shops” and restricting the benefit to only those persons who are doing business, irrespective of the fact that whether they are owner of the shop or tenant. Any benefit, under the scheme is therefore available to only those persons who are actually running a business in the said shop. The intention behind the policy for rehabilitation is clear from the guidelines which were framed to ensure that “affected persons” are only those who are actually displaced while they were doing their business. The owner of the land including shops like in the present case have already been granted compensation in terms of the award as pointed out hereinabove. Keeping this in mind, the aforesaid policy was thus applicable to only those, who actually were working out of the “shop” and were affected on account of such an acquisition. Petitioner herein



is the owner of the shop, however, for the purpose of the reallocation in terms of the aforesaid scheme/guideline, he had to demonstrate that he was running a business from the said shop. Contention on behalf of the petitioner that the only requirement as per the aforesaid policy/guideline that he is the owner of the shop and therefore entitled to an alternate shop is misplaced. If the object of the aforesaid policy was to allot an alternate shop to the owner, irrespective of whether a business is being carried out from the said shop or not, then the whole exercise of survey of the shops and residences becomes irrelevant. It is pertinent to note that same parameter has been adopted for rehabilitation of persons who were actually residing at the premises in terms of clause (d) as noted hereinabove.

**15.** In view of the above, this Court is of the considered opinion that in order to avail benefit of being awarded an alternate shop under the aforesaid policy/guideline, the petitioner had to establish that he was doing business from the said shop. The petitioner on account of being owner of the said shop does not acquire any right of alternate shop in terms of the aforesaid policy/guideline.

**16.** In view of the above, the present petition is dismissed and disposed of.

**17.** Pending application(s), if any, also stands disposed of accordingly.



2025:DHC:8227



18. Judgment be uploaded on the website of this Court *forthwith*.

**AMIT SHARMA  
(JUDGE)**

**SEPTEMBER 17, 2025/bsr/dj**