



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 10.12.2024
Judgment delivered on: 10.01.2025

+ W.P.(C) 1508/2014, CM APPL. 6456/2015 & CM APPL. 8555/2019
LACHMAN DASSPetitioner

versus

DELHI DEVELOPMENT AUTHORITYRespondent

Memo of Appearance

For the Petitioners: Ms. Ujala Vishnoi, Advocate (Through VC)
For the Respondents: Ms. Shahana Farah with Ms. Sanna Harta, Advocates
(Through VC)

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
JUDGMENT

MANOJ JAIN, J

1. Petitioner impugns order dated 21.10.2010 passed by Delhi Development Authority whereby allotment of shop situated at Mangol Puri Industrial Area, which had been allotted to him on 16.04.1985, has been revoked.
2. Petitioner was, earlier, running his business of hardware under the name of style of *M/s L.D. Hardware Store*.
3. He was doing his such business from a shop bearing no. 16-B situated at Zakhira Chowk, Near Railway Bridge, Delhi.
4. After the unfortunate assassination of the then Prime Minister Smt. Indira Gandhi in the year 1984, widespread riots took place in the capital-city and in the carnage known as '1984 riots', various residences, shops and



other premises were burnt.

5. Admittedly, various such shops situated in Zakhira area also bore the brunt of mob-fury and were gutted.

6. Petitioner filed a complaint with local Police Station about the fact that his workshop had been completely burnt in the riots and various articles were either intentionally removed or were missing. He, therefore, prayed that the matter may be investigated.

7. Petitioner also got himself registered for grant of assistance with the concerned Relief Commissioner, Delhi.

8. According to petitioner, Delhi Development Authority (DDA) floated a scheme for the rehabilitation of the victims of '1984 riots'. He was, eventually, allotted alternate plot of land measuring 20 square metres approximately, bearing no. 253, Block BC, Mangol Puri Phase-II Industrial Area, Delhi at a total cost of Rs. 12,000/- on perpetual leasehold basis, in lieu of his aforesaid burnt shop.

9. Such allotment was made by DDA in his favour on 16.04.1985.

10. The communication, in this regard, clearly recorded that DDA had decided to allot the aforesaid alternate plot of Mangol Puri in lieu of Zakhira shop and he was directed to deposit the amount as mentioned in the aforesaid communication. He was also asked to submit copies of challans of payment, undertaking and following documents: -

i. Attested and certified to be true copy of partnership deed as on the date of application for allotment and as at present (each and every page including reverse page.)

ii. Attested and certified to be true copy of dissolution deeds, if and (each and every page including reverse page.)



iii. Affidavit to the effect that there is no change in the constitution of the firm since the date of application for allotment or since.

11. It is not in dispute that pursuant to the aforesaid allotment, petitioner had made requisite payment and also submitted requisite affidavits and undertaking. He also submitted other documents including copy of ration card, indemnity bond etc.

12. However, in the year 1989, he received a communication from DDA that since he had not submitted the documentary proof of old site at Zakhira, the allotment made in his favour has been withdrawn.

13. The petitioner made representation to the Additional Commissioner (Lands) claiming that the allotment has been cancelled in an unjustifiable manner and also sent copies of letters sent to him by his bank at his old site of Zakhira, receipt of membership fee issued by the local traders' association and also letter received by him from his father at Zakhira address. DDA asked him to indicate his bank account number and name of the bank so that his case may be examined and processed further.

14. Fact remains that the petitioner was compelled to file a writ petition i.e. W.P. (C) No. 14810/2006 contending therein that by making allotment in his favour, a vested right stood created which could not have been taken away by DDA by arbitrary, discriminatory and unjust action and without following due process of law and by ignoring the settled principles of natural justice. He claimed that full payment had been received by DDA and without issuing any show cause notice, the allotment had been cancelled. However, during course of the consideration of aforesaid writ petition, the petitioner took stand that he would feel satisfied if direction was



issued to DDA to issue show cause notice to him and to pass a reasoned order in accordance with law in a time-bound manner after giving him opportunity to file reply as well as a personal hearing.

15. This Court, vide order dated 28.05.2010, finding merit and substance in such contention of the petitioner, allowed the petition and directed DDA to give him opportunity to file reply and afford him personal hearing as well and thereafter to pass final order, as expeditiously as possible.

16. Petitioner, pursuant to the aforesaid direction, was given opportunity to submit documents afresh.

17. DDA asked him to submit sufficient documents to satisfy that he was running his such business of hardware at old site of Zakhira and since, according to DDA, documents submitted by him were neither sufficient nor reliable for establishing that he possessed old site at Zakhira, it, again, came to the conclusion that the alternative allotment could not be made to him and, therefore, allotment made to him earlier vide letter dated 16.04.1985 was withdrawn and he was directed to furnish bank-particulars so that amount is refunded to him.

18. Such order of 21.10.2010 is under challenge.

19. According to learned counsel for petitioner, there was never any dispute that the petitioner was running his hardware business from the shop situated at Zakhira. It is contended that DDA itself had conducted a survey and prepared a list of the affected persons and name of the petitioner figures at serial no. 41 of such survey list. It is, therefore, contended that since the fact that petitioner was running his business of hardware from the old site of Zakhira was never in debate, there was no reason whatsoever for DDA to have cancelled the allotment. In addition to the above, it has also been



contended by the petitioner as under: -

- i. Entire payment, pursuant to the demand letter was duly made and, therefore, DDA was bound to handover the possession.*
- ii. The petitioner had submitted various documents which clearly went on to show that he was running his business of hardware from old site but such lawful claim of the petitioner has been denied by adopting a rigid and irrational stand.*
- iii. DDA should have also been cognizant of the fact that it had come up with a policy of rehabilitation and, therefore, should not have insisted for documents which were no longer in possession of the petitioner as when the property was burnt, various documents lying therein were also either burnt or removed unauthorizedly and illegally by the mob.*
- iv. Petitioner had immediately lodged a complaint with the police and such fact has not been considered by DDA at all.*
- v. Moreover, DDA itself had relaxed its policy and were not insisting upon for old site documents from various other similarly situated allottees and, therefore, DDA should have taken a holistic view and should have rather handed over the possession of the aforesaid alternate plot, instead of cancelling the allotment.*

20. All such facts have been disputed by the respondent.

21. It is contended by DDA that petitioner had been given numerous opportunities to provide with essential documents in order to substantiate the fact that he was occupying his old site at Zakhira but despite grant of several opportunities, the requisite documents were not provided and, therefore, DDA was constrained to take decision of cancellation of allotment. It is contended that petitioner was repeatedly asked to submit (i) MCD License, (ii) Sales Tax Certificate, (iii) Rent Receipts, (iv) Permanent Postal Address



and (v) Water Bill, (vi) Electricity Bill (vii) Copy of Passbook along with transaction pages etc. However, he failed to provide either the requisite copies or the originals of the important documents.

22. Decision of the cancellation has, therefore, been claimed to be justified one.

23. According to DDA, aggrieved by the aforesaid order, the petitioner had even sent representations dated 06.06.2012 and 14.12.2012 addressed to the Hon'ble Lt. Governor, Delhi, which were examined and rejected by the competent authority. The communication was sent to the petitioner vide regret letters dated 04.07.2012 and 14.12.2012. Fact remains that copies of these letters have not been placed on record by either side.

24. I have carefully gone through the averments made in the petition and also counter-affidavit and given my thoughtful consideration to the rival contentions.

25. There is no doubt that DDA had, itself, come up with rehabilitation policy to rehabilitate victims of 1984 riots.

26. A survey was conducted and list of the affected persons was prepared. According to DDA, there were 819 persons mentioned in the aforesaid list. Out of them, 639 persons were allotted alternate sites and possession was handed over to approximately 579 persons.

27. According to DDA, all those persons, who were allotted alternate sites, were able to provide the documents demanded and were able to substantiate their claim for alternative allotment and since petitioner was unable to produce essential documents required by DDA to prove his bonafide, he is not entitled to any relief whatsoever.

28. There is no denying the fact that pursuant to the directions given by



this Court in the earlier round of litigation, petitioner had appeared before the Director (CL), DDA on 05.10.2010 and submitted copies of following documents: -

- i. *F.I.R.*
- ii. *Acknowledgment from relief commissioner for application of financial assistance.*
- iii. *Post card received at the same address.*
- iv. *Receipt of Zakhira Body Builders association.*
- v. *Bill from Gupta Paint and Hardware.*
- vi. *Letter from General Secretary, New Zakhira Traders Association*
- vii. *Envelope of Allahabad Bank*
- viii. *Election I card of Raja Bazar*

29. The grievance of DDA, primarily, is with respect to the last two such documents i.e. envelope of Allahabad Bank and Election I-Card of Raja Bazar. According to respondents, original of the aforesaid two documents were very crucial but these were not available with the petitioner and, therefore, the allotment was cancelled.

30. Let me again come back to the original allotment which was made way back on 16.04.1985.

31. Obviously, it was after the 1984 riots and as per the contents of the aforesaid allotment letter, petitioner had been given plot “in lieu of Zakhira”.

32. Though such allotment letter does not contain anything indicating that it was for rehabilitation of riot victims, it has been admitted so by DDA as in its written submissions, DDA specifically admitted that such allotment was



pursuant to the rehabilitation policy of victims of 1984 riots.

33. This may, however, be also noted that DDA, in its counter-affidavit, claimed that a survey was conducted by DDA to rehabilitate the “directly affected persons” after the construction of Zakhira flyover. This may suggest additional reason for allotment.

34. Be that as it may and irrespective of the fact whether allotment was pursuant to the rehabilitation on account of riots or on account of construction of Zakhira flyover, it is admitted fact that survey was conducted by none other than DDA. Such survey was conducted to rehabilitate the directly affected persons and even as per the counter-affidavit of DDA, name of the petitioner was at serial no. 41 of such list and, therefore, he was allotted the aforesaid plot at Mangol Puri Industrial Area.

35. As noted already, pursuant to the aforesaid allotment, petitioner had made the entire payment as well. The fact, that the name of petitioner is clearly reflected in such survey and he is a directly affected person, cannot be kept aside in a nonchalant manner. This rather goes on to corroborate the stand of the petitioner that he was running his business of hardware from Zakhira, else there was no reason for having incorporated his name in the survey list containing names of directly affected persons.

36. This Court also cannot be oblivious of the fact that on account of aforesaid riots, the premises in question was burnt and the petitioner had immediately reported the matter to the police, based on which FIR was also registered.

37. Even DDA admits that the copy of FIR was submitted by the petitioner.

38. Besides copy of FIR, various other documents were also submitted by



the petitioner in order to corroborate the fact that he was running hardware business from the old site at Zakhira. It also included a receipt issued by Zakhira Body Builder Association, a letter from General Secretary, New Zakhira Traders Association and one post card which he received at the same address.

39. It may also be supplemented, right here, that DDA also failed to consider that the petitioner had made application before The Relief Commissioner, Tis Hazari, Delhi on 13.11.1984 and the petitioner was even paid compensation after due verification. On such receipt given by the office of the Relief Commissioner, the address of the petitioner was mentioned as L.D. Hardware Stores, 16-B, Jakhira Chowk, Near Railway Bridge, New Delhi. The fact, that he was paid such compensation, goes on to establish, firmly, that he was running business at old site of Zakhira.

40. Merely because, he could not produce the original envelope of Allahabad Bank or for that matter Election I-card would not mean that omission in this regard would entail cancellation of allotment.

41. There is nothing which may even remotely indicate that any of the documents submitted by the petitioner was found to be forged or false.

42. Quite possibly, DDA had become apprehensive as it had received various complaints regarding wrong allotments to those who were not actually having any premises at Zakhira and, therefore, DDA was though justified in minutely examining each and every case but the cancellation herein was not appropriate merely because of the fact that original of aforesaid two documents were not shown. There is nothing which may indicate that petitioner had submitted any bogus document or any false affidavit.



43. Importantly, a small-time petty shopkeeper may not always obtain license from Civic Agency and registration from Sales Tax Department. Moreover, as already noticed, name of the petitioner figured in the initial survey conducted by none other than DDA.

44. It needs no emphasis that since the purpose of the policy was to rehabilitate the *directly-affected persons*, the allotment should not have been cancelled merely on the basis of non-production of originals of the above said two documents. After all, copy of Voter Card has been provided by the petitioner to the DDA and it is not the case of the DDA that such copy was a fabricated one. Since the shop of the petitioner had been burnt down, it is not difficult to imagine that he must have lost various such documents which he might have kept in the aforesaid shop at the relevant time.

45. Keeping in mind the fact that various documents were submitted by the petitioner and his name also figured in the survey conducted by DDA and the fact that allotment was also made way back on 16.04.1985 to him, there was no justifiable or rational reason for DDA to have cancelled the allotment on the premises that he was unable to prove possession of old site at Zakhira. Instead of taking holistic view of the matter, particularly keeping in mind the purpose and objective of the policy, DDA rather chose to adopt a very pedantic and narrow-minded stance. Such approach, clearly, mitigates against its own policy.

46. Consequently, present petition is allowed and order dated 21.10.2010 is quashed.

47. As a necessary corollary, respondent-DDA is directed to handover physical possession of plot/shop bearing no. 253, Block BC, Mangol Puri Phase-II Industrial Area, Delhi to the petitioner within ten weeks from



today.

48. It is also ordered that in case the aforesaid premises/plot has already been allotted to someone else, some other plot of same size and preferably in the same area be given to the petitioner.

49. It is also made clear that since petitioner had already made the entire consideration amount way back in the year 1985, respondent-DDA shall not seek any further payment from him for such alternative plot.

50. Needless to say, since plot was to be given on leasehold basis, conveyance deed be also executed in favour of the petitioner for the aforesaid plot/alternate plot within the aforesaid period of ten weeks.

(MANOJ JAIN)
JUDGE

JANUARY 10, 2025/dr