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

% *Date of Decision: 23.01.2025*

+ **LPA 56/2025**

THE GOVT. OF NCT OF DELHI & ANR.Appellants

Through: Mr Sanjay K. Pathak, Standing
Counsel with Ms K.K. Kiran Pathak,
Mr Sunil K. Jha and Mr M.S. Akhtar,
Advocates.

versus

AJAY BAJPAI & ORS.Respondents

Through: Ms Kritika Gupta with Ms Muskaan
Garg, Advocates for R3/DDA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

VIBHU BAKHRU, J.

CM APPL. 4397/2025

1. For the reasons stated in the application, the delay in re-filing the appeal is condoned.

2. The application is disposed of.

LPA 56/2025 and CM APPLs. 4395-96/2025

3. The appellants have filed the present appeal impugning an order dated 22.02.2024 (hereafter *the impugned judgment*) passed by the learned Single Judge in W.P.(C) 7142/2023 captioned *Mr Ajay Bajpai v. Union of India and Ors.* The said petition was filed by respondent no.1 impugning an order dated 28.03.2023 (hereafter *the rejection order*) passed by appellant no.2 (hereafter *the Scrutiny Committee*), whereby it had declined to recommend



respondent no.1's application for an alternate plot in lieu of acquisition of its lands. The learned Single Judge faulted the said decision. Accordingly, the Court set aside the rejection order and issued the following directions:

“36. Respondent nos.3 and 4 are directed to consider the application of the petitioner in view of the observations herein above and give their recommendation within two weeks from the date of service of this order. The recommendation be forwarded to DDA for the appropriate action. The DDA is directed to allot alternate plot of land. It is further directed that the process of allotment of plot of land shall be completed within next six weeks from the date of receipt of the recommendation.

37. The aforesaid timelines will have to be complied with by the respondents, particularly keeping in view that the land of the petitioner was acquired way back in the year 2000.”

4. It is submitted on behalf of appellant no.1 that the impugned order is erroneous and Scrutiny Committee's decision to decline recommending respondent no.1's application for an alternate plot cannot be faulted as it was not in dispute that respondent no.1's wife had purchased a residential flat.

5. Mr Pathak, learned counsel appearing for the appellants earnestly contended that the question of eligibility for allotment of an alternate plot has to be considered with reference to the date when the recommendation is made and not on the date when the property of applicant is acquired. He submitted that it was conceded that respondent no.1's wife owned residential flat on the date when respondent no.1's application was considered by Scrutiny Committee and thus, the same was rightly rejected.

6. The above is the appellants' principal ground of challenge to the impugned judgement.



FACTUAL CONTEXT

7. Respondent no.1 (hereafter *the Applicant*) had purchased lands described as “*land measuring 1 bigha in Khasra Number 18/17/1 (0-8) and 18/16/2 (0-12) located at Village Pochan Pur, Delhi*” (hereafter *subject land*) by a registered Sale Deed on 28.11.1986. The said lands were subject of acquisition under the Land Acquisition Act, 1894 (hereafter *LA Act*). The same were included in a Notification dated 13.12.2001 issued under Section 4 of the LA Act. The said Notification was followed by a declaration dated 07.12.2002 issued under Section 6 of the LA Act. It is material to note that the subject land was acquired for the purposes of developing Dwarka Phase-II, Delhi. The award under Section 11 of the LA Act (being award no.30/2002-03 dated 09.12.2002) was passed by the Land Acquisition Collector awarding a compensation of ₹4,43,268/- to the Applicant as compensation for acquisition of the subject land.

8. The Applicant challenged the quantum of compensation given under the award before the learned Additional District Judge but was unsuccessful. He had also appealed the said decision to this Court, which was also rejected.

9. The Government of India, Ministry of Home Affairs had issued a policy for allotment of alternate plots to land owners whose lands were acquired under “*Large Scale Acquisition, Development and Disposal of Land in Delhi*” on 02.05.1961. Since, the said policy (hereafter referred to as *the Scheme*) was in vogue, the Applicant had made an application with the Government of NCT of Delhi (appellant no.1) for allotment of an alternate



plot. The Applicant claimed that he satisfied the eligibility criteria for such allotment.

10. The Applicant was, by a letter dated 19.12.2013, called upon to furnish certain documents in support of his application within a period of fifteen days of the said letter. The Applicant did not furnish the documents within the stipulated period on account of certain mitigating circumstances. He claimed that his father was seriously ill and was admitted to Artemis Hospital, Gurgaon at the material time. He expired on 26.12.2013. However, the Applicant sent a letter dated 23.01.2014 requesting that the delay be condoned and sought further time to furnish documents. He claimed that subsequently by a letter dated 31.01.2014, he furnished all the necessary documents that were required to be furnished in terms of the letter dated 19.12.2013. In the meanwhile, he also informed the appellants regarding change of his address.

11. The Recommendation Committee rejected the Applicant's application on account of non-determination of the Applicant's eligibility, which in turn was for want of the necessary documents. This was communicated to the Applicant by a letter dated 26.03.2015. The said letter also referred to an earlier communication dated 08.07.2014, whereby the Applicant was called upon to furnish certain documents. According to the Applicant, he had not received the said letter as it was sent to its previous address and was undelivered.

12. In the aforesaid circumstances, the Applicant filed a writ petition [being W.P.(C) 10579/2015 captioned *Ajay Bajpai v. Union of India and Ors.*] in this court. The said petition was allowed by an order dated



02.09.2016. This court had, by the aforesaid order, set aside the rejection letter dated 26.03.2015 and directed that the Applicant's case be considered on merit. This court noted that the Applicant's application was within time and further directed that if the documents had not been furnished by the Applicant, the same would be furnished within a period of three weeks from the date of the said order.

13. Pursuant to the order dated 02.09.2016, the Applicant's application was considered by the Recommendation Committee on 14.06.2018. The Recommendation Committee recommended allotment of a plot measuring 40 square yards to the Applicant and forwarded its recommendation to the competent authority. However, it is the Applicant's case that despite his best efforts to elicit the response from the concerned authorities, he did not receive any information regarding the fate of his application.

14. In the circumstances, the Applicant once again approached this court by filing a writ petition [being W.P.(C)1879/2022]. The record of the said petition indicates that there was inordinate delay on the part of the appellants in furnishing its response to the said petition. However, during the course of the proceedings before the Court on 17.01.2023, the learned counsel for the appellants (respondents in the said petition) submitted that the Applicant's request for alternative plot was rejected by an order dated 04.12.2019. A copy of the said order was handed over to the Court during the course of the proceedings. The said order indicated that the Applicant's application was rejected on the following reasons:

“As per available record on the file of the applicant residing in urbanised area and having his/her house/residential plot/flat in the urban area in the name of his/her own name or in the name



of his/her wife/husband or any of his/her dependent”.

15. The Court found the said order to be sketchy and unsustainable and, accordingly, set aside the same. The Court, by an order dated 18.01.2023, directed the appellants to take a decision on the Applicant’s application for an alternate plot by 15.02.2023 on the basis of the recommendations made by the Recommendation Committee.

16. However, the Scrutiny Committee did not take a decision within the time period as stipulated. The Applicant states that he was called again to the office of appellant no.2 on 17.02.2023 for seeking certain clarifications regarding a Sale Deed with respect to the property bearing Plot No.143, situated at State Bank of India Co-operative House Building Society Limited, Pashchim Vihar, New Delhi. In addition, appellant no.2 also sought certain clarification with regard to the description of the land mentioned in the Sale Deed.

17. The Applicant submitted its clarification regarding the Sale Deed of the said property and in unambiguous terms clarified that he was never the owner of the said property.

18. Thereafter, appellant no.2 passed the rejection order dated 28.03.2023 once again rejecting the Applicant’s application for allotment of an alternate plot.

REASONS AND CONCLUSION

19. At the outset, it is material to note that the rejection order dated 28.03.2023 was passed rejecting the Applicant’s application for an alternate



plot on the ground that he owned an alternate accommodation. The operative part of the order, which encapsulates the ground for rejection of his application is set out below:

“Whereas the applicant Sh. Ajay Bajpai in his Affidavit 25.01.2017, had declared that he and his family including dependent relations and unmarried children do not own any plot /flat/house in territory of Delhi except in village abadi Pochanpur and he is at present residing in a Flat owned by his wife, meaning thereby that he had a shelter over his head at the time of acquisition of his land and at present. As per Supreme Court’s Order dated 14-09-2011, passed in Civil Appeal Number 8289 of 2010 and 8290 of 2010 titled Delhi Development Authority versus Jai Singh Kanwar and Ors, Mr. Ajay Bajpai is not entitled to apply for an alternate plot. His application for allotment of an alternate plot is accordingly REJECTED.”

20. It is apparent from the above that the Applicant’s application was rejected on the ground that (a) he had some property in the Village Abadi Pochanpur and (b) that he is currently residing in a flat owned by his wife.

21. The Applicant had stoutly disputed that he owned any property in abadi of village Pochanpur and had also pointed out that he had issued a clarification in this regard earlier and had also affirmed the same in the writ petition.

22. The learned Single Judge noted the same and, accordingly, rejected the contention that the Applicant’s application could be rejected on the said ground.

23. The principal question is to be addressed is whether the Applicant’s



application could be rejected on the ground that he resides in a residential flat acquired by his wife. There is no dispute that the Applicant's wife owns a residential flat in Gurgaon where he resides. The impugned order dated 28.03.2023 passed by the Scrutiny Committee had noted the same as under:

“And whereas as per the Conveyance Deed dated 15.02.2021, Mr Ajay Bajpai is at present residing at Flat Number 402, Ouraniya, Sector-53, Gurugram, which is owned by his wife Ms. Kirti Bajpai.”

24. According to the appellants, the fact that the Applicant's wife owns a residential unit, which was acquired on 15.02.2021 would render the Applicant ineligible for claiming an alternate plot under the Scheme.

25. As noted above, Mr Pathak had stoutly contended that the relevant date for considering the eligibility under the Scheme for allotment of an alternate flat/plot is the date of the recommendation and not the date on which the land owner's property was acquired. He, thus, submitted that since the Applicant's wife already owns a residential flat, the Applicant does not meet the eligibility criteria. He relied on the decision of this court in *Surinder Singh Maan v. Government of NCT of Delhi & Anr.: 2017 SCC OnLine Del 10194* as well as the decision of the Full Bench of this Court in *Smt. Shiv Devi Virley v. Lt. Governor of Delhi & Ors.: 1986 SCC OnLine Del 254*.

26. We find no merit in the aforesaid contention. First, it is important to note that neither the Applicant nor his wife owns any property in Delhi. Concededly, the flat where the Applicant currently resides – as noted in the rejection order – is located in Gurgaon. The policy does not render the



person, whose family owns a property outside Delhi, ineligible for an allotment of an alternate plot under the Scheme.

27. We consider it relevant to refer to the eligibility conditions under the Scheme as disseminated on the website. The said conditions are set out below:

“WHO IS ELIGIBLE?

I WHERE THE ACQUIRED LAND IS ANCESTRAL

1. The persons who are RECORDED OWNER prior to issue of notification u/s 4 of Land Acquisition Act.
2. The persons whose lands have been acquired must have received the compensation as rightful owners from the LAC/Court and the Govt. has taken the possession of acquired land.
3. The applicants should not own a house/residential plot/flat out of village abadi in his/her dependent relation's name including unmarried children, nor he should be a member of any Co-operative Housing Society.
4. For awards announced prior to 3.4.86, the land acquired is not less than 150 sq. yds and for awards announced post 3.4.86, the land must not be less than one bigha.

II CASES WHERE LAND PURCHASED THROUGH SALE DEED

The following conditions are also to be fulfilled in addition to above:-

1. For awards announced before 3.4.86, land should have been purchased prior to issue of notification



U/s 4 of Land Acquisition Act and mutation must have been carried out in their names.

2. For awards announced post 3.4.1986, land must have been purchased 5 years earlier from the date of notification u/s 4 of Land Acquisition Act and mutation has been carried out in the name of the purchaser.
3. That where the land was purchased by an auction purchaser from the Ministry of Rehabilitation and the applicant had entered into a written agreement with the auction purchaser to buy the same, after the sale certificate was issued by the Ministry of Rehabilitation, his case would be processed for allotment on the basis of agreement and the compensations awarded by the L.A.C.”

28. The eligibility condition that the applicant should not own a house/residential plot/flat out of a village abadi in his/her dependent relation's name obviously mentions to a property located in Delhi. The fact that the Applicant's wife owns a flat in Gurgaon clearly cannot be a ground for considering the Applicant as ineligible under the Scheme. As noted above, the said flat is acquired by the Applicant's wife by a Conveyance Deed dated 15.02.2021, which is much after the date when the Applicant had made his application for an alternate plot. The learned Single Judge had rightly observed that a person whose land has been acquired and he has been dispossessed of the same cannot be expected to live as a vagabond and acquiring property subsequently would not disentitle the land owner from being eligible for an alternate property. We also consider it apposite to reproduce the following extract from the decision of the Supreme Court in ***Delhi Development Authority v. Jai Singh Kanwar & Ors.: Civil Appeal***



No. 8289 of 2010 and 8290 of 2010, which has been referred to by the learned Single Judge in the impugned judgment:

“29. So far as the contention of learned counsel for the respondent nos.3 and 4 is concerned, based on the judgment of the Supreme Court in **Jai Singh Kanwar** (Supra), this Court in fact reads the judgment in favour of the petitioner. The relevant portion of the judgment is extracted hereunder:-

“5....*Under the Scheme, only a land loser who did not own a house/residential plot/flat in his own name or in the name of his spouse or dependent relation, and who was not a member of any Co-operative Housing Society was entitled for allotment of plot....*

6....*The object of the Scheme is that when the land owned by a person is taken away in entirety and he is left without any house or plot, he should be allotted a plot. The Scheme therefore provided that only a person who does not own a house/residential plot/flat will be entitled to apply.*”

In that, the petitioner has asserted in the present petition that he does not own any property or a plot of land in the entire Delhi, including the village Pochan Pur. Learned counsel had asserted that the plot of land in village Pochan Pur was the one which was actually acquired by the respondents and as such he has no land in Delhi and the same was acquired in its entirety.”

29. The reliance placed by the learned counsel for the appellants on the decision of the Full Bench of this court in **Smt. Shiv Devi Viriley v. Lt. Governor of Delhi & Ors.** (supra) is misplaced. In the said case, the Court had considered the following Clause of the policy for allotment of alternate plot:

“12.



(10)(a) No plot should be allotted to any person, who or whose wife/husband or any of his/her dependent relations including unmarried children own a house or residential plot of land in Delhi, New Delhi or Cantonment. The question of making an exception in the case of persons living in a congested locality or whose family has outgrown should be considered after some experience has been gained of the working of the scheme.”

30. After referring to the aforesaid Clause, the Full Bench had observed as under:

“13. This shows that a plot can only be allotted to a person whose wife/husband or any of his/her dependent relations, including unmarried children do not own a house or plot in Delhi. Thus, the only beneficiaries under the Scheme of allotment in lieu of a plot are those who have no house in Delhi or whose dependent family members, etc., do not have a house. No other person can get an allotment. If we see the scheme this way, we will understand that it has a distinct beneficial quality regarding the public. It is not a gift. It is a necessity for persons who would otherwise not possibly acquire any home.”

31. It is clear from the above that the observations made by the Full Bench were in the context of clause that proscribed allotment of any plot to a person whose wife/husband or any of his/her dependent relations owned house/residential plot in Delhi, New Delhi or Cantonment. In the present case, there is no dispute that neither the Applicant/nor his wife owns any house/residential plot of land in Delhi or New Delhi. The aforesaid decision also highlighted that the scheme had a beneficial quality as it is for allotment of the residential units/land to persons who had no house in Delhi.

32. We have reservations regarding the decision of the learned Single Judge in the case of *Surinder Singh Maan v. Government of NCT of Delhi*



and Anr.: Neutral Citation No.: 2017:DHC:4810. However, it is not necessary to examine the same. This is so because in the facts of the present case there is no cavil that neither the Applicant nor his wife owns any residential unit/land in Delhi.

33. We find that the Applicant has been repeatedly vexed on the decision of the Recommendation Committee despite the learned Single Judge returning unequivocal findings in favour of the applicant. We consider it apposite to refer to the decision of the learned Single Judge in W.P.(C) 1879/2022 captioned *Mr Ajay Bajpai v. Union of India and Ors.*, decided on 18.01.2023. The said order indicates that despite service of notice, the appellants and the concerned authorities had not filed the counter affidavit. Finally, the Court was constrained to summon the officials for deciding the Applicant's challenge to the earlier order holding the Applicant to be ineligible for allotment of an alternate accommodation. It is material to note that the appellants had referred to the decisions in the case of *Surinder Singh Maan v. Government of NCT of Delhi & Anr. (supra)* as well as in *Smt. Shiv Devi Virley v. Lt. Governor of Delhi & Ors. (supra)* in the said proceedings. However, the Court had held that the same were distinguishable. Admittedly, the said decision has become final.

34. The learned Single Judge had examined the minutes of the Recommendation Committee and had found that the same had clarified all aspects of the Applicant's application. The relevant extract of the said decision is reproduced below:

“19. It is seen that the said Committee consisted of five senior officials of the Land and Building department. The above recommendations have clarified all aspects of the Petitioner's application. The Committee's findings are:



- That the applicant is eligible;
- That the applicant is the recorded owner of the land which was acquired;
- He was also disbursed the compensation;
- The confusion regarding the khasra number is also sorted out and clarified;
- The application for alternate plot was within the time limit;
- The petitioner has given an affidavit that he or his family members do not own any immovable property in the urban area of Delhi;
- He has been recommended for an alternate plot of 40 sq. yards.

20. As against the above detailed recommendations, the order date 4th December, 2019 is stated to have been passed on the basis of a Scrutiny Committee Report dated 30th September, 2019. Even the said report of the Scrutiny Committee does not give any details of the property owned by the Petitioner or his immediate family. The relevant portion of the Scrutiny Report is set out below:

“The Scrutiny Committee had examined the case on the basis of available record and the government guidelines. As per guidelines the applicant should not own a house/residential plot/flat (out of village abadi) in the urban area in his/her own name or in the name of his/her wife/husband or any his/her dependent relations including unmarried children. As per available record on the file the applicant residing in the urbanized area and having his/her house/residential plot/flat in the urban area in the name of his/her own name or in the name of his/her wife/husband or any of his/her dependent.”

Since, the case does not fall under the category of eligible applicant for allotment of alternate plot, the Scrutiny Committee has decided to not to recommend the case of Sh.



Ajay Bajpai S/o K. S. Bajpai for allotment of alternate plot.”

21. Thus, clearly there is no impediment in the Petitioner being allotted an alternate plot. At this stage, it is pointed out by Mr. Mukul Manrai that there is a sale deed dated 13th April, 2000 by one Mr. Jaswant Rai in favour of Mr. Vinod Kumar Tyagi where the Petitioner has acted as the Attorney of Mr. Jaswant Rai. Even this may not affect the Petitioner in as much as the Petitioner is merely described as a power of attorney holder of Mr. Jaswant Rai. The sale deed dates back to 2000 and at best shows that the property has been sold by the Petitioner as a power of attorney holder for someone. This would not in effect disqualify the Petitioner as this sale deed showing sale is prior to the acquisition of the Petitioner's land. The authority would look into this sale deed and seek a clarification, if needed, from the Petitioner who shall attend a personal hearing.

22. Under these circumstances, this Court is of the opinion that there is no reason to deny relief to the Petitioner. The decision on the application for alternate plot shall now be taken by the concerned authorities by 15th February 2023, on the basis of the recommendation made by the earlier Recommendation Committee which has considered the matter in detail and dealt with each and every aspect. The subsequent objections raised by the Competent authority on 5th September 2018 are without any basis. The order dated 4th December 2019 was never communicated to the Petitioner prior to the last date of hearing before this Court. Even the file notings show that the decision to reject was not communicated.

23. It is, accordingly, directed that the order dated 4th December, 2019 shall stand set aside.

24. For the conduct of the Respondents in this matter, of having not disclosed the passing of the order dated 4th December 2019 and for having compelled the Petitioner to approach this Court twice as also the manner in which the application for alternate allotment has been delayed without any basis, costs of Rs.50,000/- is imposed on the



Respondents which shall be paid to the Petitioner within two weeks.

25. The present petition is allowed in the above terms. All pending applications, are disposed of.

26. The Petitioner is permitted to move an application if the matter is not disposed of within two weeks in accordance with law.”

35. In the given circumstances, we find no infirmity with the decision of the learned Single Judge and accordingly, the impugned judgment is set aside.

36. For the reasons stated above, the appeal is dismissed. Pending applications are also disposed of.

VIBHU BAKHRU, J

ANOOP KUMAR MENDIRATTA, J

JANUARY 23, 2025

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Click here to check corrigendum, if any