

Mehar Singh and ors. Vs. Delhi Development Authority and ors.

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Court : Delhi

Decided On : May-18-1981

Reported in : 1982(3)DRJ28

Judge : S.S. Chadha, J.

Acts : [Constitution of India](#) - Article 226; [Delhi Development Act, 1957](#) - Sections 21(3)

Appeal No. : Civil Writ Appeal No. 1032 of 1972

Appellant : Mehar Singh and ors.

Respondent : Delhi Development Authority and ors.

Judgement :

(1) The petitioners were displaced persons, and residents of A.R.P. Quarters Motia Khan, Paharganj, New Delhi. They were the tenants of Government and paying rent regularly. The residents formed an association for the welfare of the occupants.

(2) The D.D.A. proposed to construct multi-storeyed flats in Motia Khan after demolishing the A.R.P. Qrs. The representatives of the Association approached the Delhi Administration and the D.D.A. for allotment of alternative accommodation. The Delhi Administration took a decision for the rehabilitation of the residents of the A.R.P. Qrs. and communicated it in a letter dated Feb. 8,

1965. Administration explained that the occupants can be allotted flats in the Motia Khan and those who were not willing to accept houses in the multi-storeyed building, could be considered for allotment of developed plots in the Naraina Residential Scheme of D.D.A. on payment of the full rate of premium to be fixed by the Govt. The Vice-Chairman of D.D.A. had a discussion about the allotment with the Association and assured them that no residential plots in Naraina Residential Scheme of D.D.A. were being reserved to be allotted to the members, By letter dated 31-1-67 and 8-2-67 lists of 24 & 6 persons respectively were sent to the D.D.A. who were desirous of allotment of plots in the Naraina Residential Scheme of D.D.A. D.D.A. communicated a decision for allotment of 30 plots vide its letter dated 7-3-67 and 30 persons filed the requisite affidavits and also deposited Rs. 500.00 each as earnest money 17 occupants of A.R.P. Qrs. were made allotment in different draws. Thereafter the Association agitated for further allotment and forwarded 12 applications for the consideration of D.D.A. By allotment letters dated 25-3-70 and 1-4-70 addressed to the petitioners separately, it was stated that they have been found eligible for allotment. Each of the petitioner deposited the requisite amount of 25% of the premium within the time allowed in the allotment letters. However, it was stated that the letters did not carry with it any legal commitment.

(3) The D.D.A. then took a decision and communicated in the letter dated August 30, 1971 to the Association that the persons covered by the Gadgil Assurance may be offered plots in Paschimpuri and those who have got proof of their residence in A.R.P. Quarters between year 1950-60 may be offered built up flats in Lawrence Road, in accordance with their income group. Aggrieved by this decision the petitioner filed the present writ petition under Article 226 of the Constitution seeking a mandamus to quash the impugned decision and directing the D.D.A. to allot and transfer residential plots of the area already agreed to on payment of 75% of the balance of the premium.

(4) The counsel for the respondent raised a preliminary objection that no legal or statutory right of the petitioners has been infringed. Reference was made to the letters dated 25-3-70 and 1-4-70. Wherein it has been stated that the letter did not carry with it any legal commitments. therefore, no writ of mandamus can be

issued to the D.D.A.

(5) Dealing with the preliminary objection it was held that under Section 21(3), the D.D.A. has the power to sell the land and when it does, it exercises a statutory power. A writ of mandamus can be granted when there is a statutory duty imposed upon a statutory authority and there is a failure on the part of that authority to discharge the statutory obligation. The concept of instrumentality or agency of the Government is not limited to a Corporation created by a statute but is equally applicable to a company or society. An authority falling within the expression 'other authorities' is by reason of its inclusion within the definition of State in Article 12, subject to the same constitutional limitations as the Govt. The authority is bound by the basic obligation to obey the constitutional mandate of Fundamental Rights. The D.D.A. is prohibited from subjecting anyone to any discriminatory treatment in the execution of schemes. "Equality before the law" or the 'Equal protection of laws' within the meaning of Article 14 of the [Constitution of India](#) means absence of any arbitrary discrimination by the law or in its administration. No hostile discrimination can be shown to persons belonging to the same class or those similarly situated. A reasonable classification can be made but it must include all persons who are similarly situated with respect to the purpose of law. The classification would be arbitrary if it includes some and excludes others without any valid basis. The classification has to be founded on an intelligible differential which distinguishes those that are grouped together from others and that the differential must have a rational relation to the object sought to be achieved. The D.D.A. has selected the allottees who fulfill requisite conditions of eligibility for allotment out of the occupants of the A.R.P. Qrs. But no reasonable basis has been adopted in refusing the possession of the allotted plots to the petitioners, and thus they have a legal right of not being discriminated against. The petitioners have a clear and specific legal right of being treated equally and not to be discriminated against.

(6) Further held that the D.D.A. has proclaimed a policy of allotting 30 plots in the Naraina Residential Scheme of D.D.A. Article 14 of the Constitution forbids discrimination amongst persons of the same class. For the purpose of allotment of alternative plots to the occupants of A.R.P. Qrs. the occupants are in the one and the same scheme. The occupants are all similarly situated. Those of the

occupants who fulfilled the laid down conditions were offered the alternative allotments, 21 other occupants were given the allotment letters and later given possession of one plot each. The petitioners were also similarly given the allotment letters, but have not been given possession of plots in the Naraina Residential Scheme, instead are being offered in Pashchimpuri Residential Scheme. Once having declared a policy, the D.D.A. cannot be allowed to pick and choose. The unequal treatment which is sought to be meted out to the petitioners is unreasonable. The counsel for the D.D.A. has been unable to point any justification for classification between the petitioners and the 21 other occupants who have been given the possession, The D.D.A. is, thus, precluded from according discriminatory treatment to similarly situated persons who are offering to complete the allotment of alternative plots of land in Naraina Residential Scheme of D.D.A. The impugned order was therefore struck down. The writ petition was allowed.