

**Deep Chand Vs. Dda and ors**

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**SooperKanoon Citation :** [sooperkanoon.com/920648](http://sooperkanoon.com/920648)

**Court :** Delhi

**Decided On :** Aug-19-2011

**Judge :** Rajiv Sahai Endlaw, J.

**Appeal No. :** W.P.(C) 6040/2011

**Appellant :** Deep Chand

**Respondent :** Dda and ors

**Advocate for Def. :** Mr. Arun Birbal, Adv.

**Advocate for Pet/Ap. :** Mr. Sidharth Joshi; Mr. Ajay Singh, Adv.

**Judgement :**

1. The petitioner was a registrant for an LIG Flat under the New Pattern Housing Scheme 1979 of the respondent DDA. He was in the year 1991 allotted a flat at Dilshad Garden. It is the case of the petitioner that the Demand-cum-Allotment Letter of the said flat was sent by the respondent DDA at the wrong address and was never received by the petitioner.

2. Upon representation by the petitioner in this regard in December, 1991, his case was examined and in the draw of lots held in December, 1992, he was allotted a flat at Rohini.

3. The petitioner however represented against the cost of the flat at Rohini being too exorbitant. The said representation of the petitioner was rejected and the petitioner having failed to avail of the allotment, the allotment in his favour was cancelled on 1st July, 1994. The petitioner after remaining quiet for 14 years, in the year 2008 admittedly at the behest of property brokers who had approached him to transfer his rights to them, started writing to the respondent DDA and on which letters/representations of the petitioner, it appears that again his file was opened and enquiries made from the petitioner and the matter looked into. The respondent DDA has vide letter dated 7th June, 2011 impugned in this petition informed the petitioner that the allotment in favour of the petitioner having been cancelled on 1st July, 1994, the petitioner has no right.

4. The counsel for the petitioner has contended that the allotment to the petitioner of the flat at Rohini in 1992 was contrary to the "Wrong Address Policy" of the respondent DDA and as per which policy the petitioner was to be allotted the flat in the same zone in which the flat was earlier allotted, i.e. in Dilshad Garden and at the same price as was then prevailing. In support thereof, reliance is placed on the Office Order dated 25th February, 2005 issued in pursuance to the Court order dated 16th December, 2004 in this regard. There is, however, nothing to show that any such policy existed in 1992 when an alternate allotment at Rohini was made to the petitioner. Moreover, if the petitioner was aggrieved from the alternate allotment in the year 1992, he ought to have got the same adjudicated then and cannot be permitted to agitate the same now after nearly 20 years. Rather, from the narrative of the petitioner itself, it appears that the petitioner was no longer interested in the flat and this petition has been filed at the behest of property brokers who dabble in such documents/flats.

5. Counsel for the petitioner has also relied on the Minutes of the Meeting held on 28th July, 2009 of the Committee of the DDA and contended that while other persons whose cases were considered in the same meeting have been made an allotment, the petitioner has been discriminated against.

6. The respondent DDA being a "State" is bound to reply to and consider any communications made to it. Merely because it considers the same, cannot re-

activate the rights which have become dead by lapse of time. As far as the Minutes of the Meeting aforesaid are concerned, the other cases mentioned therein appear to be those that fell under the "Wrong Address Policy". However, the case of the petitioner as per the said Minutes also was kept for further verification/review and on which it has been found that the allotment in favour of the petitioner stood cancelled way back in 1994.

7. The counsel for the petitioner also relies on certain notings of prior to 7th June, 2011 in the files of DDA to contend that comments favouring the case of the petitioner were made at some levels. However merely because some of the officials of the respondent DDA made notings favourable to the petitioner would not entitle the petitioner to relief when the said favourable notings did not find favour with the higher officials who did not agree with the claim of the petitioner. The Apex Court in *Sethi Auto Service Station v. DDA* (2009) 1 SCC 180 held that internal notings are not meant for outside exposure and notings in the file culminate into an executable order affecting the rights of the parties only when it reaches the final decision making authority in the department, gets his approval and the final order is communicated to the person concerned. Similarly in *Jasbir Singh Chhabra v. State of Punjab* (2010) 4 SCC 192, it was held that issues and policy matters which are required to be decided by the Government are dealt with by several functionaries some of whom may record notings on the files favouring a particular person, someone may suggest a particular line of action; however, the final decision is required to be taken by the designated authority keeping in view the larger public interest. The said views were recently approved in *UOI v. Vartak Labour Union* JT 2011 (3) SC 110.

8. Though the respondent/DDA has a policy of giving a second chance but the petitioner having allowed the allotment in the year 1992 in his favour to lapse cannot be said to be eligible under the said Policy also.

9. Thus, there is no merit in the petition and the same is dismissed. No order as to costs.