

## THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on :31.01.2007

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**WP (C) 10455/2006 & CM No.10293/2006**

**SHRI ASHOK KUMAR DHAR**

...Petitioner

- versus -

**GOVERNMENT OF NCT OF DELHI & ANR**

...Respondents

### **Advocates who appeared in this case:**

For the Petitioner : Mr A.B. Dial, Sr Advocate with Mr Ajay Gaiind

For the Respondents : Mr Anoop Bagai

### **CORAM:-**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

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| 1. | Whether Reporters of local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the Reporter or not?                                | YES |
| 3. | Whether the judgment should be reported in Digest?                    | YES |

### **BADAR DURREZ AHMED, J (ORAL)**

1. Rule.
2. With the consent of the parties, this petition is taken up for disposal.
3. The contention of the petitioner is that the petitioner was allotted an industrial plot under the 1982 policy for allotment of plots in Functional Industrial Estate for Electronics at Okhla, New Delhi. Although the plot was allotted to the petitioner, possession could not be handed over inasmuch as it was illegally occupied by some third parties. Subsequently, another plot was allotted to the petitioner. Unfortunately, the possession of this plot was also not

handed over to the petitioner nor was any conveyance deed executed by the respondents on the ground that the petitioner and his relatives have other industrial plots.

4. It is contended on behalf of the petitioner that the 1982 Scheme did not contain any condition that a person would not be allotted a plot if he or his relatives had alternative industrial plots. Reliance was placed on two decisions of this court in ***Civil Writ Petition No.2852/1997 (Arun Jain v. Government of National Capital Territory of Delhi***, decided on **23.05.2003**) and ***Civil Writ Petition No.953/1997: M/s J.P. Minda and Partners and Another v. Government of National Capital Territory of Delhi***, decided on **10.11.2004**).

5. The learned counsel for the respondents submitted that when the subsequent plot was allotted to the petitioner, the policy had changed and there was a requirement of the petitioner filing an affidavit to indicate that neither he nor his relatives had been allotted any industrial plot. He submitted that an affidavit had been filed by the petitioner to this effect. However, subsequently, it was found that a family members of the petitioner had industrial plots. It is for this reason that the allotment was cancelled.

6. In rejoinder, the learned counsel for the petitioner made a two-fold submission. The first submission is that the 1982 Scheme did not contain any

requirement of the petitioner and also his family members not having been allotted any industrial plot. Secondly, he contended that no allotments were, in fact, made in favour of the petitioner nor any of his family members. Some of the family members of the petitioner had acquired plots on purchase from the market and it was not a case of allotment by the respondents. In any event, he submits that the question of the family members owning industrial plots is not relevant inasmuch as the 1982 Scheme contained no such stipulation. In support of this contention, the learned counsel for the petitioner relied on the following observations and findings in the decision of this court in ***J.P. Minda*** (*supra*) to the following effect:-

“The aforesaid controversy has been resolved by this Court in a similar petition being Civil Writ No.2852 of 1997 (Arun Jain Vs. Government of National Capital Territory of Delhi, decided on 23.5.2003) wherein in similar circumstances, it was held that after the entire exercise having been done by the respondents on the basis of which the petitioner was found successful for allotment of the plot, at later stage he could not be denied the allotment on the ground that there was a change in the policy after the scheme was circulated. In that case, the respondents were directed to allot the plot to the petitioner. However, learned counsel for the respondents contends that the aforesaid decision is distinguishable. The contention is without merit.

In 1982, when the respondents advertised the scheme for allotment of industrial plots, the respondents did not ask for any information as to whether any of the family members of the applicant has been allotted an industrial plot. Though the wife of the petitioner No.2 was a partner of M/s. P.C. Minda to whom the allotment of plot No.A-67/2, G.T. Karnal Road was made, the partnership was dissolved in the year 1988. Thereafter, the wife of the petitioner No.2 had also executed a relinquishment deed relinquishing her interest

in the aforesaid plot. Thus, it cannot be said that there was any concealment of information at the time of making application for allotment of plot in 1982. The only information to be given was whether the applicant had already been allotted a plot/shed/flatted factory in any of the approved industrial area/estate by the DDA/Directorate of Industries/DSIDC or any other Government/Semi Government agency. the petitioner had admittedly given such information by mentioning that no such plot/shed/flatted factory has been allotted to the applicant. There is no provision in the application or 1982 Scheme that if applicant has been allotted such a plot already, he would not be eligible. This significant omission would rather convey that no such ineligibility was attached or there was no stipulation or policy that if a person or his family members has already been allotted a plot, in an approved industrial area, then he would not be entitled to apply.”

7. Considering the arguments advanced by the counsel for the parties, I find that the decision in ***J.P. Minda's*** case (*supra*) covers the present case entirely. Under the 1982 Scheme, the petitioner was entitled to the allotment of a plot. The same could not be handed over to the petitioner because it was in the unauthorised occupation of some third party. This was, therefore, not on account of any fault on the part of the petitioner. As held in the decision of ***J.P. Minda*** (*supra*), the subsequent change in policy would not disentitle the petitioner from seeking allotment of the plot.

8. Accordingly, the respondents are directed to deliver vacant possession of the plot No.67 in Block-A to the petitioner and to execute the

lease deed. The same has to be done on the petitioner clearing all the dues, if any.

This writ petition stands disposed of. No costs.

**BADAR DURREZ AHMED  
(JUDGE)**

**January 31, 2007**  
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