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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN

S. B. Civil Writ Petition No. 16409/2010

Sultan Ram (Freedom Fighter) S/o Late Shri
Narayan Ram Vs. The State of Rajasthan
through Chief Secretary, and Others

Date of Order ::: 31.10.2013

Present
Hon'ble Mr. Justice Mohammad Rafiq

Shri Sandeep Garssa, counsel for petitioner
Shri P.C. Sharma, counsel for respondent no.3
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By the Court: -

This writ petition has been filed by Sultan Ram, who was a member of Indian national Army led by Netaji Subhash Chandra Bose. Petitioner has produced photo copy of 'tamra patra' awarded to him by the Government of India on 25th year of freedom celebrated by the country. He has also produced photo copy of the certificate awarded to him by the Rajasthan Swarn Jayanti Samoroh Samiti, Jaipur. He has filed this writ petition with the grievance that despite his making several representations to the respondents, he has not been allotted a residential house by the Rajasthan Housing Board either in HIG or MIG category in Jaipur city.

Learned counsel for petitioner has argued that action of the respondents is highly arbitrary and discriminatory. Learned counsel submitted that as per the letter dated 07.10.2010 (Annexure-8) sent by the Deputy Housing Commissioner, Circle-II, Jaipur, to the Assistant Director (Prosecution) & Public Information Officer, Rajasthan Housing Board, Jaipur, the Rajasthan Housing Board has allotted four houses of H.I.G., five houses of M.I.G. B and one house of M.I.G. A to the applicants falling in the freedom-fighters' category. There is quota of 1% as per the order of the Government dated 30.04.2003 produced by the respondent with their reply.

Learned counsel for the respondent no.3 Board has

// 2 //

submitted that the quota in which the petitioner is claiming allotment of the house, is discretionary quota and therefore the same cannot be claimed as a matter of right. This discretionary quota of 1% is available for allotment to the persons falling in different categories, namely, those who are awarded 'Paramveer Chakra', 'Mahaveer Chakra', 'Ashok Chakra', 'Shourya Chakra', 'Kirti Chakra', or a widow of army man dying in action, winner of Olympic medal or sitting/former Members of Parliament and Member of Legislative Assembly and Chairmen of the Municipal Boards/Corporation/Mayor and social workers whose services are recognized by the State as outstanding. Such allotment, if any, is made by a High Level Committee headed by the Minister of Urban Development and Housing Department, with President of the Housing Board and Secretary of the Urban Development and Housing Department, as Members.

Learned counsel for the respondent Board submitted that the eligibility of the petitioner has not been assessed so far.

The status of the petitioner of freedom-fighter is not disputed by the respondent Board in its reply. The respondent Board also does not dispute the fact that they made allotment in the category not only to the freedom-fighters but also to different other categories of persons. He accepts that there is 1% quota for the applicants falling in such categories.

Learned counsel for the petitioner rejoined and submitted that 1% quota has been exclusively earmarked for freedom-fighters. In this connection, he has produced for perusal of the court the Revised Procedure For Registration and Allotment of House issued by the Rajasthan Housing Board, Jaipur, which was adopted by it in the 94th and 95th Meeting of Board held on 10.11.1981 and 15.12.1981.

The status of the petitioner as a freedom-fighter cannot be disputed and has not been contested by the respondent Board in its counter-affidavit. The argument that the eligibility of the petitioner has not been assessed by

// 3 //

the respondent Board so far, cannot be appreciated. The respondent Board ought to have considered the same. The matter has remained pending in this court for last about three years. The respondents though are contesting the matter but have never considered the case of the petitioner, though during the interregnum period, they could have considered his case for allotments in this category. The respondents have not brought on record of the case full facts as to how many allotments in this category have been made.

The writ petition is therefore disposed of directing the respondents to consider the representation of the petitioner in regard to allotment of a house and pass appropriate order on such application within three months from the date such representation along-with a copy of this order, is produced before the respondent no.3 Board, in any of their colony in Jaipur city, after verifying his entitlement as a freedom-fighter.

(Mohammad Rafiq) J.

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All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Giriraj Prasad Jaiman
PS-cum-JW