

In the Court of Commissioner for Persons with Disabilities
25-D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2
Phone-23216002-04, Telefax: 23216005
[Vested with power of Civil Court under the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995]

Case No.4/680/2014-Wel./CD/ 2363-64

Dated: 27.1.15

In the matter of :

Dr.Ram Kishan

House No.224, Sarai Pipal Thala,
Near Adarsh Nagar,
Delhi-110033

..... Petitioner

Versus

Sh.Balvinder Singh

Vice Chairman

Delhi Development Authority
Vikas Sadan, INA
New Delhi

.....Respondent

ORDER

1. Dr.Ram Kishan a disabled person filed a representation relating to non-implementation of the direction of Hon'ble High Court of Delhi by Delhi Development Authority for not providing 5% reservation in flats/plots etc. The Vice Chairman Delhi Development Authority was requested to give his comments on the representation filed by the petitioner. A reply was filed on behalf of Delhi Development Authority indicating that the reservation in allotment of flats has already been increased from 1% to 3%, 5% reservation for allotment of shops/commercial build up units with a 5% rebate in the cost subject to maximum of rupees one lakh etc.
2. A hearing was fixed during which it was stated that the Hon'ble High Court of Delhi has not given any direction for providing 5% reservation for persons with disabilities. There is a provision of 3% reservation for persons with disabilities in PWD Act 1995. It was further submitted that **Quote** "WP (C) 7487/2008 (All India Confederation of Blind Vs

Anr) and WP (C) 8419/2008 (Smabhavna & Anr Vs DDA & Anr) were filed seeking quashing of policy dated 9th October 2006 framed by Government of India. The scheme framed by Government of India Ministry of Urban Development on 9th October 2006 inter alia provides for reservation of 1% in allotment of flats and plots and 5% in allotment of shops for persons with disabilities as defined in Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. It is further submitted that 5% rebate in cost subject to a maximum of Rs.1.00 Lakh will be given to the persons with disability who are allotted flats, shops and plots under the above quota. the Hon'ble Court found no ground to quash the existing scheme however disposed of the writ petition with certain directions including direction to DDA to incorporate a condition in future allotment of land made to Co-operative Societies requiring them to give preference/reservation to persons with disabilities in the flats to be constructed by them on the land taken from DDA and it was further directed to permit the guardians of persons with mental disabilities to apply for allotment on behalf of and in the name of the persons with disabilities. The DDA has provided benefit of 3% reservation to persons with disability as defined in section 2 of the persons with disabilities (Equal Opportunities Protection of Rights and full Participation) Act 1995 under DDA Housing Scheme 2014. As per terms and conditions in clause 21 of the brochure if it is found that the applicant has applied although he was not eligible as per conditions laid down in para 2 of this brochure or has claimed benefit of reservation on the basis of wrong documents or has submitted more than one application as given in para 2 (iv), (v) and (vi) or has given false affidavit/information including quotion wrong PAN number or suppressed any material fact whether at the time of application or at the time of taking over possession or at the time of execution of conveyance deed the application/allotment will be rejected/cancelled summarily without issuing any show cause notice for the same. In case of such cancellation/rejection all payment deposited against application/allotment shall be forfeited this will be without prejudice to DDA's right to take such other action as may be permissible in law. In clause 22 (ii) of the brochure of DDA Housing Scheme 2014 "attempt shall be made to make allotment of flats to person with disability at ground floor. In clause.22 (vi) of the brochure of DDA Housing Scheme 2014 it has been provided that the concession shall be applicable to persons who come within the meaning of disability as defined in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 and duly certified by a Medical Board". In the application form of DDA Housing Scheme 2014 also a declaration is required to be signed by the

applicant as under I/we hereby declare that the information given above is true to the best of my/our knowledge and nothing is false and material/information has been concealed there from. I/we have carefully read and understood the terms and conditions contained in the brochure along with instructions and hereby agree to abide by them. I/we fulfil the eligibility criteria given in the Brochure to apply under the scheme. I know if it is found that if I/we have applied although I/we am/are not eligible as per conditions laid down in clause 2 of the brochure or have falsely claimed the benefit of reservation or false affidavit/information including quoting wrong PAN number or suppressed any material fact at any time whatsoever the application/allotment will be rejected/cancelled summarily without issuing any show cause notice for the same. In case of such cancellation/rejection all payment deposited against application/allotment shall be forfeited. It is submitted that sufficient provisions have been made to safeguard the benefit/interest of applicants under the reserved categories under DDA Housing Scheme 2014. It is submitted that the condition is applicable to all categories of reservation i.e applicant belonging to Scheduled Castes (15%), Scheduled Tribes (7.5%), War Widows (1%), Ex-Servicemen (1%) and Persons with Disability (3%). The allotment is made through a computerized draw based on random number technique. The reservation is given as per locality. The interpretation given by the petitioner would result in defeating the rights of the persons belonging to other reserved categories. It was held in the case of WP (C) 7487/2008 (All India Confederation of Blind Vs UOI and WP (C) 8419/2008 (Smabhavna and Anr Vs DDA and Anr) that the mandate of the Act is to give preferential treatment in allotment of land for specified purposes. What should be the mode and extent of preference is to be decided by the Government or Local Authority which frames the scheme, taking into consideration the objective of the Act. In the matters of policies the court cannot interfere unless it is shown that it contravenes the provisions of some law for the time being in force or is wholly arbitrary or irrational. The extent of reservation provided in the scheme considering the large number of allotments made by DDA cannot be said to be irrational, arbitrary or in derogation of the provisions of the Act." **Unquote.**

3. A copy of the DDA Housing Scheme of 2014 was also submitted by the representative of the DDA. In the draw held reservation was provided to disabled persons and out of total 25040 numbers of flats 753 flats were allotted to persons with disabilities. A list of flats allotted to persons with disabilities was also filed locality and category wise.
4. I have perused the representation and the reply filed by the DDA. The allotment of flats to persons with disabilities has been done following the provisions in the Persons with

Disabilities Act 1995 and the contention made in the representation of the petitioner is not tenable. The representation is therefore rejected.

5. Ordered accordingly.



Given under my hand and the seal of the Court this 27th day of January, 2015.

K.S. Mehra
27/1/15
(K.S. Mehra)
Commissioner

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
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