

**In the Court of Commissioner for Persons with Disabilities**

**National Capital Territory of Delhi**

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[Vested with Powers of Civil Court under the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995]

Case No. 1(271)/Grv./11-12/CD/1796-97

Dated: 20.11.14

In the matter of

**Sh.Rajender Prasad**

H.No.129, Dariyapur Kalan,  
Delhi-39

..... Petitioner

Versus

**Ms.A.Mona Sreenivas**  
Dy.Commissioner (North)  
Department of Revenue  
1, Kripa Narayan Marg  
New Delhi

.....Respondent

**ORDER**

1. The petitioner filed a representation before the Commissioner for Persons with Disabilities stating that the plot number 63/1/2 in village Daryapur allotted in the year 1988-89 in the category of disabled persons under the 20 point programme has been illegally taken away and converted in to a public park near Dada Maldev Park Daryapur in 1996. The petitioner has enclosed a photocopy of LR Form 37, Disability Certificate and also photocopies of letters written by the then local MLA to the Divisional Commissioner in 2009.
2. On receipt of the representation the SDM Narela was directed to file a report in the matter on 20.3.12. The Tehsildar Narela filed his report on 8.5.12 indicating that as per the report of Halqa Patwari the plot is recorded in the name of the Gram Sabha and there is no entry of allotment to any person and added that further information regarding allotment of the plot may be obtained from the BDO (North West) who is

the custodian of Gram Sabha Land. Accordingly a report was called from the BDO (North West) on 28.5.12. The BDO (North West) in his report dated 7.6.12 stated that Quote "Residential plots for landless persons were allotted by the then Village Pradhan Gram Panchayat Village Daryapur Kalan under 20 point programme. There was no quota for allotment to the physically handicapped persons. The Gram Panchayats in Delhi were abolished in the year 1989. This office is not aware of the circumstances under which the plot was snatched/taken away from Sh.Rajender Prasad in the year 1996 (as mentioned in the representation). As per the then Development Commissioner's order dated 30.11.2000 Gram Sabha land cannot be allotted to any individual or institution. As per the Divisional Commissioner/Secretary (Revenue)'s order dated 19.9.2011 regarding grant of perpetual lease rights to allottees of residential house sites allotted under 20 point programme on "as is where is basis" a constructed house must exist at the site and further plots which are still lying vacant shall be resumed and vested in the Gram Sabha" Unquote. A copy of the reply from the BDO (North West) was sent to the petitioner who filed his reply on 31.12.12 stating that he was allotted the residential plot under 20 point programme which was forcibly taken away with the assistance of the then MLA for construction of a Community Park near Dada Maldev Temple and that since then he has approached all the concerned authorities for getting his plot back but no action has been taken even after requesting the Deputy Commissioner, the BDO and the Tehsildar regularly.

3. The case was fixed for hearing. During the course of hearing reports were filed by the SDM North West and the Deputy Commissioner North. The SDM North West in his report dated 20.8.13 pointed out that the petitioner had failed to prove that the plot was allotted to him as per procedure and provision of law and that issuance of LR form and allotment certificate signed by Village Pradhan have no validity or legality. The complainant failed to prove that he was in possession of the plot in 1996. The SDM dismissed the complaint of the complainant as he was never in possession of the plot bearing Khasra No.63/1/12 Village Daryapur Kalan Delhi. The Deputy Commissioner North in her report dated 28.8.14 also does not support the case of the petitioner in the absence of any records with the BDO Office and states Quote "Mere issuance of LR-37 does not confer complete legal sanctity to the allotment of the plot. Also he never took possession of the said plot nor claimed so before any court of law". Unquote.



4. I have perused the representation of the petitioner and the replies filed by the BDO (North West), SDM Narela and Deputy Commissioner Revenue (North). It is a matter of concern that the plea of the petitioner and the related provisions of law; instructions on the subject and the philosophy of allotment of residential plots to landless persons under the 20-Point Programme have not been studied/examined carefully and in depth. All the officers are starting on a premise that there is no merit in the claim made by the petitioner. It may be necessary to know the provisions of law etc under which the residential plots were allotted to the landless persons under the 20 Point Programme. There was no statutory provision for allotment of plots prior to 1976. The Delhi Panchayati Raj Rules were amended in 1976 for making allotment of residential and agricultural plots to landless persons. The ADM (Development) of the office of the then Deputy Commissioner Delhi issued guidelines on 18.8.1982 which interalia provided as follows : **Quote** "i. Applicant(s) should not be in possession of any land or house-site either in his own name or in the name of any of his family members dependent upon him or/should be in possession of inadequate housing as determined by the Deputy Director (Panchayat). Priority in allotment of house-sites should in any case be given to those not in possession of land or house site. ii. Monthly income of the applicant should not exceed Rs.750/- per month. (later raised to Rs.1500/- p.m.) iii. The area of the plot allotted should not exceed 80 square yards in case of house-sites. iv. Applicant should be resident of the concerned village for a period of 4/5 years. v. These guidelines will apply to the distribution of agricultural land and land meant for house-sites and have the approval of the Lt. Governor, Delhi" **Unquote**. Further instructions relating to the procedure were also issued. As per the instructions the Deputy director (Panchayat) was required to open a separate file for each allotment with the following details/documents : **Quote** "i. The resolution(s) in original of the Gaon Panchayat and Gaon Sabha passed in this regard. ii. The list of proposed allottees. iii. Income certificate obtained for each allottee from the revenue agency as also affidavit of each allottee regarding his income. iv. A certificate from the Enquiring Officer i.e Panchayat Secretary that the allottee is a resident of the village supported by ration card details and that he satisfies the other criteria of the allotment policy. v. A certificate from the Patwari that the allottee does not own any other agricultural land or residential plot as the case may be in the village in his name or in the name of any member of his family dependant upon him. vi. A copy of the allotment order passed



by the Deputy Director (Panchayat) under Rule 178(2) of the Delhi Panchayat Raj (Amendment ) Rules, 1976 in the case of house sites must have been kept on record.

vii. One copy of the above documents to be sent to the ADC (P) invariably. The file in which the Deputy Director (Panchayat) processed the case was to be kept in the personal custody of the BDO concerned.” **Unquote.** The Divisional Commissioner in his report submitted to the Seven Member Committee set up by the Hon’ble Speaker of Delhi Legislative Assembly on 18.7.2002 stated that the laid down instructions were not followed and most of the records are reportedly not available **Quote :** “Panchayat Rules which provided for perpetual lease, in many villages allotments had been made for a period of five or nine years. As this time period has now lapsed the allotments are to be regularized i.e the lease is to be converted into a perpetual lease. The Divisional Commissioner in his report has recommended that claim of only those allottees who can support their claim with the following documents, should be considered for regularization of allotment : (i) Proper self-identification LR-37. (ii) Entry in girdawari, khatauni even for a period of one year. (iii) Copy of the patta/allotment order and that out of the 12725 allottees of residential plots that were surveyed only in 3352 cases mutation had been recorded. Therefore, if entries in revenue records were insisted upon very few cases would be eligible for regularization”. **Unquote.**

5. The Seven Member Committee has observed as follows : **Quote** “Official apathy and non-availability or non-maintenance of records cannot be an excuse to deprive the allottees of their rights. The Revenue Department should make all out efforts to trace the genuine allottees even in villages which have not been surveyed yet and regularize their allotments. The enquiry by the Deputy Commissioners was limited to the allotment of residential plots and they had done a commendable job in covering 89 out of 112 villages. But the task remains unfinished. Besides undertaking the survey of the left out villages the Department should also now cover the allotments of agricultural land under the 20 Point Programme on a war footing. The recent decision of the Government to place the work of the Development and Panchayat Department under the Divisional Commissioner is a welcome move and should help in better coordination among the Officers. The Committee is of the view that allotment of all original allottees of agricultural plots who are in physical possession be regularized by summary mutation and necessary entries in the revenue records be made immediately. In the case of allottees of residential plots the Committee is of the view



that those allottees who are in physical possession and have supported their claim with the original allotment order/patta/LR-37 during the One Man Enquiry Committee survey should be regularised after making necessary entries in the revenue records. The Committee was informed that the Government and DDA were acquiring land/plots allotted ;under the Programme and the compensation in lieu of the acquired land was being paid to the Gaon Sabha of the allottees. Surprisingly, this was happening in spite of the directions of the then Lt. Governor of Delhi, Sh.Jagmohan. Shri Jagmohan in his note dated 22.1.83 addressed to the Vice Chairman DDA had directed the VC (DDA) to ensure that land allotted under 20 Point Programme or any other scheme of the Delhi Administration or Central Government was not to be taken over by the DDA. In cases where such land had been acquired, DDA was to return it to the Development Department for proper allotment to the eligible harijans/allottees. The Committee is of the view that these directions should be strictly adhered to. In circumstances where acquisition has already been done or where acquisition is unavoidable, the Government should ensure that the agency responsible provides alternative agricultural land/residential plots or makes adequate monetary compensation in lieu of the acquired land." Unquote.

6. It is a well known fact that the landless persons were allotted residential plots under 20 Point Programme and as per the procedure the Village Pradhan was delegated powers to allot the plots. The Panchayats in Delhi were abolished in the year 1989 and the instructions of the Development Commissioner/Divisional Commissioner etc were issued thereafter and therefore the plea that the Village Pradhan had no authority to allot the residential plots does not gather ground. Undoubtedly the procedure required to be followed does not appear to have been followed in this case in as much as there is no Resolution and other records do not contain the name of the petitioner. The Deputy Commissioner North had tried to lay her hands on the documents to find out as to how the land was given to Irrigation and Flood Control Department for the park but no documents are reportedly available with the office of the BDO. The reply of the Irrigation and Flood Control Department dated 18.6.14 to BDO North West in response to his letter states Quote "That old records available have been searched relating to subject matter. As per the record available the work improvement of Dada Maldev Park at village Daryapur Kalan in Kanjhawla Block was executed and completed on 28.9.2007 under agreement EE/CD-VII/2006-07/78 as per A/A and E/S received vide letter dated 8.11.2006" Unquote. The Khasra Girdawari of the related



period i.e prior to the period 1989-90 has been weeded out and even otherwise the name of the petitioner does not appear in Khasra Girdawari including that of 1996 till date when the said land is claimed to be given to the Irrigation and Flood Control department for park. The BDO North West in his reply dated 7.6.12 is on record to state that residential plots for landless persons were allotted by the then village Pradhan Gram Panchayat village Daryapur Kalan under 20 Point Programme. And in the same reply the BDO has quoted the order of Divisional Commissioner Secretary (Revenue) dated 19.9.2011 in which it has been clarified/ordered that perpetual lease rights to allottees of residential house sites allotted under 20 Point Programme would be granted on "as is where is basis" with the stipulation that a constructed house must exist at the site and that plots lying vacant shall be resumed and vested in Gram Sabha. The factual position however is that there are many such residential plots which are still lying vacant and they have not been resumed and vested in Gram Sabha. In any case the plot of the petitioner had been taken away from him in 1996 itself even as the office order for resuming the vacant plots and vesting them in Gram Sabha was issued on 19.9.2011 i.e 15 years after resuming the residential plot of the petitioner. The Divisional Commissioner has categorically stated that if entries in revenue records were insisted upon very few cases would be eligible for regularization. The observation of the Seven Member Committee that official apathy and non-availability or non-maintenance of record cannot be an excuse to deprive the allottees of their rights reveals the ground level reality and the righteous indignation of many of the hapless allottees of residential plots under the 20 Point Programme.. The plea that mere issuance of LR-37 does not confer complete legal sanctity to the allotment of the plot suffers from an infirmity as it was the responsibility of the concerned officers to issue LR-37 only after ensuring that proper procedure had been followed. The LR-37 could not have been issued without the tacit approval of the concerned officers who perhaps wanted to run with the hare and hunt the with hound as the occasion arose which is in a way making mockery of a National Scheme which had given hopes to thousands of landless persons who now find themselves in lurch as all along they believed that they had been allotted land only to realise one fine morning they had been living in a made believe world of the concerned officials. There is no order of the Competent Authority to allot the land of the petitioner for construction of a Park which is against the spirit and interest of the order no. F./BDO(SW/2000/dated 30.11.2000 which states as follows **Quote** "As a Policy



Gram Sabha land can only be allotted to Government Department for developing facilities for the local community such as schools, hospitals/dispensaries/DVB Complaint Centre and Community Centre etc by the prior approval of Hon'ble Lt. Governor of Delhi. No authority other than Lt. Governor Delhi can allot Gram Sabha Land for any length of time for any purpose whatsoever. This is for strict compliance by all concerned" **Unquote.** The order of the Development Commissioner clarifies the authority empowered to allot Gram Sabha land and the date of issue of the order does not in any way change the authority as no other authority could have allotted the land of plot no.63/1/2 of village Daryapur for any other purpose. As may be seen the then Lt. Governor in 1983 had directed DDA not to acquire land allotted to landless persons under the 20 Point Programme and in stark contrast the land allotted to landless persons under the 20 Point Programme was quietly allotted for construction of a public park. The concept of public park in an urban setting is well appreciated however in a rural area where the entire Revenue Estate of the village is an open area and there is no restriction on movement of either human beings or domestic cattle (if they do not damage the crops etc) the proposal of the concerned department appears totally misconceived. The whole purpose behind the proposal of converting plots allotted under the 20 Point Programme in to a public park seems only to deprive the landless persons from getting land to construct residential houses. It is also intriguing to note that the plot was taken away from him (the petitioner) in 1996 and it is only in 2007-08 that the work was executed by the Irrigation and Flood Control Department i.e after a period of around 11-12 years.

7. It may therefore be logical (based on the reports of the Officers of the Revenue Department) to argue that the allotment of land to the Irrigation and Flood Control Department is irregular/illegal as there is no order of the Competent Authority i.e the Lt. Governor Delhi to allot the land to Irrigation and Flood Control Department for conversion of the residential plots allotted under 20 Point Programme in to a public park. The averments of the then Divisional Commissioner before the House Committee of the Legislative Assembly also make it clear that the case of the petitioner needs to be looked into favourably as in either case the procedure had not been followed. In case there is no merit in the claim of the petitioner then validity/legality of thousands of other such cases who are still in occupation of these residential plots would come into question as no such procedure seems to have been followed and almost all the cases are of a similar nature. It is a travesty of justice to

deny benefit of a poverty alleviation scheme to a disabled person by putting a shield of procedure when the same procedure is not followed by the same very authorities. The case may therefore be put up to the Competent Authority for reconsideration in the light of the facts and circumstances as narrated in the preceding paras.

8. Ordered accordingly.

~~Given under my hand~~ and the seal of the Court this 20<sup>th</sup> day of November 2014.



*K.S. Mehra*  
20/11/14

(K.S. Mehra)  
Commissioner

Court of Commissioner (Disabilities)  
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