That the petitioner is a permanent and bonifide respondent of Village Bharthal, New Delhi, and being citizen of India is entitled to invoke the extra ordinary Writ jurisdiction of this Hon’ble Court under Article 226 of the Constitution of India.

That the respondent is State within the meaning Article 12 of the Constitution of India and the respondent is amenable to the Writ jurisdiction of this Hon’ble Court.

That the petitioner was the recorded co-bhumidar/owner of land measuring 53 bigha and 07 biswas, situated in Village Bharthal, New Delhi. The aforesaid land of the petitioner was acquired by the Government under Award No.26/2002-03 dated 23.10.2002 under the Scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961.

That since the land of the petitioner was acquired for planned development of Delhi under the Scheme “Large Scale Acquisition Development and Disposal of land 1961”, therefore, he applied for allotment of alternative plot under the Scheme of the Government.

That as a welfare Scheme to rehabilitate the Agriculturists whose land is acquired by the Government, Govt. Of NCT framed the Scheme of alternative plot in lieu of acquired land under Large Scale Acquisition Development and Disposal of land in Delhi announced by Government of India, Ministry of Home Affairs vide letter 2nd May 1961. The said scheme came in force w.e.f. 2.5.1961. As per the Scheme, plots are allotted by DDA on the recommendations of the Land & Building Department of the Government as per aforesaid Policy. The copy of the said Policy dated 2nd May 1961 is annexed as Annexure-’A’.

That under the said Policy the norms for recommendation of the size of the plots has been provided, which reads as under:-

FOR AWARDS ANNOUNCED BEFORE 03.04.1986

1. Where the area of the land No plot

Acquired Is less than 150 sq. yds.

2. Where the area of the land 40 sq.yds

Acquired is 150 sq. yds. to one bigha

3. Above one Bigha to 10 Bigha 250 sq. yds 4. Above ten Bigha 400 sq. yds.

FOR AWARDS ANNOUINCED ON OR AFTER 03.04.1986

Where the area of land acquired

Is less than one bigha No Plot

For one Bigha 40 sq. yds.

Above one Bigha up to 5 Bigha 80 sq. yds.

Above 5 Bigha to 10 Bigha 150 sq. yds.

Above 10 Bigha 250 Sq. Yds.

That as stated above, the land of petitioner was acquired vide Award dated 23.10.2002 and thereafter he applied for allotment of alternative plot with the Land & Building Department and completed all the formalities as were desired by the Land & Building Department from time to time.

The Land & Building Department recommended the application for allotment of alternative plot of size of 250 sq. yds to the petitioner vide recommendation letter dated 09.09.2014. Copy of the Recommendation Letter in favour of the petitioner is annexed as Annexure-‘B’.

That it is pertinent to mention here that for the smooth implementation of the aforesaid Scheme for allotment of alternative plots, which in fact is a Welfare Scheme, the Land Acquisition in Delhi for Planned Development was carried out in terms of the Policy of Ministry of Home Affairs dated 2nd May 1961 (Annexure-A) which provide for alternative plots at pre-determined rates to those whose lands were acquired.

That it is also pertinent to mention here that in the year 1993, it was decided by the respondent to divide the capital of State in three zones for the purpose of allotment of alternative plots in the manner as under:-

|  |  |
| --- | --- |
| a) Recommendation of South Zone | Dwarka/Papankalan |
| b) Recommendees of East , North, West & Rohini Zonwa | Rohini |
| c) Recommendees of Narela | Narela |

That since the implementation of the said Scheme, allotment of alternative plots are made by draw of lots as per the entitlement of the size of plots and in the Zone in which the land was situated i.e. if the land which was acquired was situated in South Zone allotment of plot has to be made in Dwarka and if the land of the recommendees was situated in East, North-West and Rohini Zone then the plot is to be allotted in Rohini Zone whereas the plots are to be allotted to the recommendees of Narela Residential Scheme.

Furthermore, as per stand taken by DDA in the Courts of Law the rights of the persons whose lands are required are given priority to other allottees.

That since the petitioner’s land was situated in Village Bharthal, therefore, on the basis of the recommendation dated 09.09.2014 made by Land & Building Department the petitioner is entitled to allotment of plot of the size of 250 sq. yards in Dwarka itself.

That since last more than 15 years the petitioner has been waiting for allotment of alternative plot in Dwarka, for which recommendation has already been made vide Recommendation Letter dated 09.09.2014, the petitioner was surprised to receive a letter dated 23.4.2018 from the office of respondent where it is stated that the computrised draw for allotment of alternative plots of 250 sq. yards in Narela Residential Scheme at11.00 A.M on 27.04.2018 at “Nagrik Suvidha Kendra” Vikas Sadan, DDA Office, New Delhi-110023. The petitioner was invited to attend the Draw.

The said letter was received by the petitioner by Speed Post only on 28.04.2018 in the evening whereas the Draw was scheduled to be held on 27.04.2018. Copy of the aforesaid letter alongwith the envelope thereof is annexed as Annexure-C.

That the petitioner could not understand the reason for sending the said letter by respondent DDA to him for inviting him in the Draw which was scheduled to be held on 27.04.2018 for allotment of alternative plots of 250 sq. yds. In Narela Residential Scheme in as much as the petitioner entitlement was for allotment of alternative plot in Dwarka only because his land was situated in Dwarka. The petitioner made enquiry in the matter and he was informed that a Public Notice dated 24th April 2018 was published in Hindi Daily Newspaper and was posted on the Web Site of DDA in order to inform the public about the draw of alternative plots scheduled to be held on 27.4.2018 at 11 AM in the Office of Respondent at Vikas Sadan, New Delhi. According to the said Public Notice, allotment of plot of 250 sq. yds. alternative plots shall be made in Narela Residential Scheme in respect of the recommendees of Dwarka, Rohini and Narela, in the draw scheduled to be held on 27.4.2018 at 11 AM and all the recommendees have been invited through said Public Notice to reach at Vikas Sadan, New Delhi for draw at the scheduled date and time.

It is pertinent to mention that neither the petitioner have come across any Public Notice in news paper on the day when it was published nor he could get information from any other source. The petitioner is a farmer and is not educated to access the Website of the Respondent.

A copy of the said Public Notice dated 24th April 2018 is enclosed as Annexure-‘D’.

That the petitioner was further shocked and surprised to know that his name appeared at Sr.No.64 in the list of recommendees finalized by Respondent for the draw of lots for allotment of alternative plot in Narela Residential Scheme on the said date and time as mentioned above. The copy of the aforesaid list of recommendees for being considered for allotment of plot in Narela Residential Scheme in draw to be held on 27.4.2018 is available on Website of DDA.

That since the petitioner has no information about the said draw scheduled on 27.04.2018 and intimations were received by him only 28.4.2018 in the evening when he received letter dated 23.4.2018 from respondent by Speed Post, therefore, the petitioner could not raise objections prior to drawabout the inclusion of his name in the list for allotment of alternative plot in Narela Residential Scheme nor he could attend the Meeting to raise objections at the spot. The petitioner has also got no information about the result of the draw, but if any allotment has been made in the name of the petitioner in the said draw on 27.04.2018, for allotting alternative plot in Narela Residential Scheme, the same is illegal and nonest being contrary to the policy of respondent itself, as mentioned above. The respondent cannot arbitrarily and unilaterally change the zone from Dwarka Residential Scheme to Narela Residential Scheme for allotment of alternative plot to the petitioner and the said allotment if made in favour of the petitioner is not acceptable to him nor the said illegal allotment would take away the right of the petitioner for allotment of alternative plot of 250 sq. yards to him in Dwarka Residential Scheme in lieu of the acquisition of his land which was situated in South-West District, at its original seniority.

That from the aforesaid list and Public Notice it has become clear to the petitioner that the respondent has illegally, arbitrarily and with malafide intention contemplated to allot alternative plot to the petitioner in Narela Residential Scheme contrary to its own Policy and decision which provides that the recommendees of the alter native plots of South District shall be allotted alternative plot in Dwarka. The petitioners land which was acquired was situated in Village Barthal which is situated in Dwarka itself, therefore, the petitioner is entitled to the alternative plot in Dwarka only, for which recommendation has been made. The aforesaid decision of the respondent to include the name of petitioner for allotment of alternative plot in Narela Residential Scheme in place of Dwarka, is illegal, unwarranted, misguided, malafide and without authority besides being in violation of the aforesaid welfare scheme and policy. The said action of the respondent is without proper appreciation of policy which if implemented, shall result into substantial loss, harassment, embarrassment and injustice to the petitioner.

That it is further respectfully submitted that neither in the Public Notice nor on the Website of DDA, the respondent has assigned any reason for taking such illegal and arbitrary decision for including cases / names of the recommendees of South Zone also for allotment of alternative plots in Narela Residential Scheme. The respondent cannot be allowed to take such arbitrary decision and allot alternative plot to the agriculturists whose land has been acquired for Planned Development of Land by the Government, in any manner as per their choice, whims and fancies and without proper appreciation and application of policy.

That there is no justification for the respondent in allotting plot to the petitioner in Narela Residential Scheme in as much as there are 105 plots of the size of 250 sq. yards available in Pocket 4 & 6 of Sector 26, Dwarka , New Delhi, for allotment of alternative plots to the persons whose land has been acquired. Besides it, the someplots are also available in other Sectors also.

In this regard, it is submitted that the petitioner has come across the information under RTI Act,2005 given by Respondent on 31st March 2017. The respondent has furnished a copy of the Plan of Pocket 4 & 6 at Sector 26, Phase-II, Dwarka and the Agenda Item and Minutes of the Screening Committee meeting held on 16.3.2014 vide Item No. 143/2014.

According to the information as furnished under RTI, Act, total No. 105 are available in Pocket 4 & 6 and Sector 26 Dwarka Phase-II. The copy of the covering letter and the information given under RTI Act 2005 is annexed as Annexure -‘E’ and copy of the Lay Out Plan furnished under RTI Act is annexed as Annexure-‘F’.

That in view of the position as explained above and since the plots of size of 250 sq. yards are available in Dwarka, therefore, the respondent is not justified in their action of allotting plot in Narela Residential Scheme.

That the petitioner may kindly be allowed to refer Rule 6 of DDA (Disposal of Development Nazul Land) Rules, 1981 (hereinafter referred to as “DDA Rules”), which provides for allotment of a plot at a predetermined rate to the person, whose land has been acquired.

“6. Allotment of Nazul land at predetermined rates.

Subject to the other provisions of these rules, the Authority shall allot Nazul land a t the pre-determined rates in the following cases namely:-

to individuals whose land has been acquired for planned development of Delhi after the 1st day of January, 1961, and which forms part of Nazul land:

PROVIDED that if an individual is to be allotted a residential plot, the size of such plot may be determined by the Administrator after taking into consideration the area and the value of the land acquired from him and the location and the value of the plot to be allotted’;

That in view of the aforesaid provision of Law, it is the duty and responsibility of the Central Government to make appropriate provisions for allotment of alternative plots. DDA is implementing the policy. Rule 6 of DDA Rules recognizes statutory duty on the part of the DDA. Once there is a statutory duty then certainly the Respondent is duty bound to comply with the same in toto.

That as per the policy and provisions of relevant law, the respondent is duty bound to make arrangement to carve out the plots to meet out the requirement for allotment of alternative plot. The DDA has got sufficient land in Dwarka and the Agriculturists whose land has been acquired has preferential rights for allotment of plots over all other categories. By their arbitrary act, they cannot make the people to suffer or cannot make the policy as illusory more particularly when the Policy as stated above is statutory one and the same is being recognized by the DDA Rules also.

That in view of the position as explained above, necessary directions are required to be issued to respondent to allot alternative plot of 250 sq. yards to the petitioner as per the recommendations made by the Land & Building Department as referred to above in Dwarka only and without any further delay. The allotment of plot, if any, arbitrarily and unilaterally made in favour of the petitioner in Narela Residential Scheme in the drawn held on 27.04.2018 is liable to be quashed and the seniority of the petitioner for allotment of alternative plot in Dwarka Zone is required to be maintained at the same number. The illegal allotment, if made in Narela Residential Scheme should not come in the way as hurdle for allotting plot to the petitioner in Dwarka Zone as per his seniority.

That this Hon’ble Court in number of cases while interpreting Scheme of Alternative Plot has emphasized that there is an element of urgency in the Scheme and by the delay and inaction on part of the respondent not only defeats the purpose behind the scheme but also deprive the petitioner of his valuable rights. It is held by this Hon’ble Court in “Ramwati Vs. Government of NCT of Delhi” that the “Scheme of allotment of alter native residential plot in lieu of acquired land is rehabilitative in nature and considering that such allotment of alternative land is in lieu of acquired land, there is an element of urgency there,” .

That the petitioner has no other alternative and efficacious remedy in the matter except to approach this Hon’ble Court, hence the present Writ Petition.

That the petitioner has not filed any other proceedings in the matter in the Apex Court or in this Hon’ble Court.

MOST RESPECTFULLY SHOWETH:-

1. That the petitioner has filed the above noted Writ Petition seeking a writ of Mandamus or any other writ, order or direction, directing the respondent to allot an alternative plot in Dwarka. The said writ petition is pending before this Hon’ble Court.

2. That the Land & Building Department issued a letter recommending the name of the petitioner for allotment of alternative plot measuring 250 square yards.

3. That as per alternative allotment scheme a person is entitled for allotment of alternative plot in the certain Zone in which the acquired lands lie. The land of the petitioner were in Village Bharthal which falls in South Zone (Dwarka) and the petitioner is entitled for alternative plot in Dwarka as per the policy.

4. That in view of the express commitment of the respondent to allot an alternative plot in the same zone, as the zone in which the lands were acquired, the petitioner has a legitimate expectation and enforceable right for allotment of plot in Dwarka. The petitioner is also entitled for allotment alternative plot at a rate commensurate with the rate at which the compensation was paid.

5. That in the meantime, during the pendency of the aforesaid Writ Petition the draw was held on 27.4.2018 and petitioner was allotted plot No. 51, Pocket NO. 5, Block, Sector A-6, measuring 209.00 sq. mtrs. in Alternative Allotment Narela Residential Scheme. The petitioner has filed an application dated 7.5.2018, seeking stay from issuing any allotment letter or Demand Notice on the basis of draw held on 27.4.2018. A large number of identical Writ Petitions have been filed and are pending before this Hon’ble Court and in many of the matters this Hon’be Court has passed an Interim Order to the effect that allotment of plot in favour of petitioner at Narela shall be subject to the outcome of the Writ Petition. All the Writ Petitions are being taken up together and matter is now fixed for 1st May 2019.

6. That inspite of the pendency of the said application seeking stay from raising Demand Notice, the respondent has sent a Demand-cum-Allotment Letter dated 29.3.2019, to the petitioner calling upon him to pay the 10% premium of the plot termed as earnest money/ confirming amount for Rs.3,65,081/- to be deposited within 30 days from the date of issue of this Demand Letter.

7. That despite the fact that 105 plots of 250 sq. yards are available in Dwarka in Pocket 4 & 6 of Sector 26, Dwarka Phase-II, as mentioned in Writ Petition. The respondent has wrongly include the name of Petitioner for allotment of alternative plot to him in Narela Residential Zone of draw for the allotment alternative plot to the petitioner therein has been held on 27.4.2018.

8. That the aforesaid decision /action of the respondent in allotting alternative plot to respondent in Narela is illegal, arbitrary, malafide and against the practice, procedure and norms of respondent, apart from being violation of Policy.

9. That without prejudice to the contentions and legal submissions raised by the petitioner in the aforesaid Writ Petition and his right for allotment of alternative plot in Dwarka Residential Scheme, the petitioner may kindly be permitted to deposit the aforesaid amount with DDA and in case the petitioner succeeds in his Writ Petition and is allotted plot in Dwarka Residential Scheme. The said amount is to be adjusted against the demand for allotment of plot in Dwarka Scheme.