

Samarpal & Ors vs Union Of India Through Drm Dimpy Garg & ... on 14 March, 2023

Author: Manmeet Pritam Singh Arora

Bench: Manmeet Pritam Singh Arora

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CONT.CAS(C) 305/2023

SAMARPAL & ORS.

Through: Mr. A.K. Tripathi, Ad ..

versus

UNION OF INDIA THROUGH DRM DIMPY GARG & ORS.

Through: Mr. Om Prakash and Mr

Pratap, Advocates for

Mr. Achal Gupta, Advo

Mr. Parvinder Chauhan

Sushil Dixit, Advocat

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 14.03.2023 Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of. CONT.CAS(C) 305/2023

1. The present contempt petition has been filed by the Petitioner stating that the Respondents have failed to comply with the time bound directions contained in judgment dated 04.07.2022 passed by a Coordinate Bench of this Court in W.P.(C) 4785/2008.

2. The relevant portion of the judgment dated 04.07.2022, of which compliance of the direction is sought in the present petition is set out in paragraph 54 of the said judgment, which reads as under:

"54. As a result, this petition is allowed to the following extent:

(i) It is declared that

(a) if the petitioners have been residents of the Shahid Basti jhuggi in Nabi Karim near the railway tracks or the foot over bridge at New Delhi Railway Station, from a date prior to 30th November 1998, and have been continuously living in jhuggis till 14th June, 2008, when they were removed, and

(b) if they are still residing in jhuggis as on date, they would be entitled to be relocated and granted plots in accordance with their entitlement as per Clause 7 of the Relocation Policy.

(ii) In order to satisfy the respondents in this regard, the petitioners would present themselves before the officer, to be intimated by the respondent to Learned Counsel for the petitioner within a week with all documents in their possession, to demonstrate compliance with conditions (a) and (b) in (i) supra.

(iii) Proof of residence would be permitted to be adduced not only by Ration Cards or by Voter ID Cards, but also by any other document, issued by a public or Governmental authority, which is verifiable in nature. It would be for the Railways to verify the authenticity, genuineness and acceptability of the concerned document. In case any of the petitioners is required to produce any additional document, in the event of the documents produced by said petitioner(s) being found to be unsatisfactory, the Railways would apprise the concerned petitioner(s) accordingly.

(iv) The petitioners who are found, on a perusal of the documents and keeping in mind the observations and findings in this judgement, to be entitled to alternative allotment, would be allotted such alternative accommodation, as per the petitioners' entitlement and in accordance with the Relocation Policy. This shall be done as expeditiously as possible and not in any event, later than 6 months fi-

om the date of production of the documents by the concerned petitioner(s) before the Railways."

(Emphasis supplied)

3. The learned standing counsel for the Respondent No. 3, DUSIB, who appears on advance notice states that the process of verification has to be carried out by the Railways as is evident from paragraph 54 (iii) of the said judgment.

4. The learned counsel for Respondent No. 1, who appears on advance notice states on instructions that Respondent No. 1 has taken steps to assail the judgment dated 04.07.2022, though he fairly concedes that the LPA has not been listed till date.

5. Issue notice. The learned counsel for the Respondent Nos. 1 and 3 accepts notice. At this stage, no notice is being issued to Respondent No.2, Government of NCT.

6. In the first instance, this Court notes that on the perusal of the directions issued at paragraph 54 of the judgment, it is apparent that the competent authority to comply with the directions is Railways i.e., Respondent No. 1. As per the directions of this Court, Respondent No. 1 ought to completed the entire process of verification and alternative allotment within a period of six months from the date of the judgment. Even though, the said period of six months expired on 22.01.2023, admittedly Respondent No. 1 has not even initiated the process as directed by this Court.

7. In this view of the matter, this Court is prima facie of the opinion that Respondent No. 1 has failed to comply with the said directions.

8. At this stage, the learned counsel for the Respondent No.1 prays that the Petitioner be directed to furnish their documents in terms of the paragraph 54(iii) of the judgment, before the Senior Law Assistant, Dr. D.S. Meena on 20.03.2023 at 03:30 PM to enable Respondent No. 1 to initiate compliance of the said directions.

9. It is made clear to Respondent No. 1 that mere filing of the LPA against the judgment dated 04.07.2022 and in the absence of any stay order passed by this Court, the said explanation cannot be accepted as a reasonable defence to the averments of non-compliance in the present petition, wherein learned single judge has categorically observed at paragraph 14 of the judgment that the case of the Petitioners herein has been pending before this Court for past 14 years.

10. In view of the fact that the date of 20.03.2023 has been fixed today, Respondent No. 1 shall ensure that a compliance affidavit is filed within a period of four weeks thereafter.

11. List on 22.05.2023.

MANMEET PRITAM SINGH ARORA, J MARCH 14, 2023/hp/kv Click here to check corrigendum, if any