
Mr. Sudhir Gupta Vs Delhi State Industrial Development Corporation and Another

CWP No. 5877 of 2000

Court: Delhi High Court

Date of Decision: Aug. 19, 2002

Acts Referred:

Delhi State Industrial Development Corporation Limited (Staff Service) Rules, 1978 "Rule 2K, 43P

Citation: (2002) 4 RCR(Civil) 689

Hon'ble Judges: S.B. Sinha, C.J; A.K. Sikri, J

Bench: Division Bench

Advocate: Shiv Kumar Suri, for the Appellant; Geeta Mittal and Shobhna Takiyar, for the Respondent

Judgement

A.K. Sikri, J.

Respondent No. 1, namely, Delhi State Industrial Development Corporation Ltd. (hereinafter to be referred as "DSIDC" in

short) is a joint venture of Government of India and Government of National Capital Territory of Delhi. Although the entire share capital of

respondent No. 1 except two shares of Rs. 100/- each held by the President of India, these two shares are held by Principal Secretary (Finance)

and Commissioner of Industries, Government of National Capital Territory of Delhi. The present petition which is filed in the nature of "Public

Interest Litigation" raises the issue of corruption in allotment of working spaces/sheds by DSIDC. Primary allegation is that various officials of

DSIDC while making allotments of these sheds favored its own kins, relatives, husband/wife to get these sheds sold on premium. In making these

allegations the writ petitioner primarily relies on a report of the Vigilance Cell of the respondent-Corporation which is dated 3.4.2000 and was

made by Shri J. Motiwal, Divisional Manager (Vigilance). The operative portion of this report, based on some investigation, makes the following

relevation:

Consequent upon an investigation it has been found that Mrs. Asha Sharma, Assistant Manager and Mrs. Usha Chanana, Supervisor have got

allotted the work spaces at Kabir Basti and Sangam Park C.W.C.(s), respectively in the names of their husbands. Shri S.K. Ganguli, Divisional

Manager and Shri Deep Kakkar, Asstt. Grade-II have got allotted work spaces at Himmatpuri and Jwalapuri in the names of their wives. Shri

P.M. Tiwari, Assistant Manger has got allotted work Spaces at Himmat Puri and Kalyanpuri in the names of his sons. Whereas, Mrs. Sharda Suri,

Supervisor has got allotted work space at Kalyanpuri in the name of her daughter, Miss Anjali Suri.

In this connection the undersigned has been directed to request you to furnish information about all other officers/officials who have got allotted the

work spaces in their names or in the names of their relatives at our various Community Work Centres, at your earliest.

2. In the counter-affidavit filed by respondent No. 1 these allegations are denied. The respondent has explained that the Delhi Administration

transferred 2919 work centres constructed by DDA, Slum Wing to DSIDC in the shape of capital assets. The approval was accorded by the

Board of Directors in their meeting held on 26.7.1991. Out of the above, 922 work centres had already been allotted by the office of the

Commissioner of Industries on hire purchase basis with two years moratorium and 15 years period of realisation of Installments. Another 330

work centres are in occupation of Punjab Migrants under the Order of the Lt. Governor. Another 18 work centres at Mori Gate are under

unauthorised occupation and have not been taken over by the respondent. Delhi Administration invited applications for another 634 work centres

and all those applications were transferred to the respondent-Corporation. In answer to the allegations of unauthorised allotment, the respondent-

Corporation has clarified in the counter-affidavit that it received a complaint from the Lt. Governor"s office on 2.6.1998 made by Shri I.K.

Harbans, claimed to be an allottee of one of the sheds at Sangam Park, regarding allotment of sheds in different areas by the officers of the

respondent in the name of their relatives. Vide letter dated 11.6.1998 sent by registered post, the complainant was asked to visit Vigilance Cell of

the respondent on any working day with relevant records for clarifications. But the letter was received back undelivered with postal remarks ""not

known, incomplete address, without number, return to sender"". Though the complaint appeared to be in pseudonymous yet the respondent took

cognizance of the complaint and initiated an inquiry to ascertain the genuineness of the complaint. The respondent by letter dated 18.9.1998

appointed Sh. M.K. Saxena, Dy. Manager as Inquiry Officer to conduct preliminary inquiry in respect of allegations made by Sh. I.K. Harbans of

Sangam Park against officers of the respondent-Corporation. The Inquiry Officer submitted his report on 16.11.1998 with the finding that except

Promila Sharma, all the officers detailed in the complaint have got one or more sheds allotted in various Community work centres in the name of

their relatives. All these allottees had furnished affidavit to the effect that their monthly income from all sources does not exceed Rs. 1500/- p.m.

Consequent upon the report of the fact-finding inquiry the Divisional Manager (Vigilance) of the respondent vide letter dated 9.12.1998, 9.2.1999

requested Divisional Manager (CWC) to intimate the name of other officers, if any, other than mentioned in the complaint who have got allotted

sheds in the name of their relatives in violation of allotment conditions. The Divisional Manager (CWC) vide letter dated 18.5.1999 informed the

Divisional Manager (V) that the allotments were made as per terms and conditions of allotment. However, the Divisional Manager (V) vide letter

dated 11.8.1999 called for the files of allotment of work space to relatives of officials of DSIDC. On 18.8.1999 the Divisional Manager (CWC)

forwarded the files to Divisional Manager (V) for perusal and examination. As mentioned hereinabove, in the allotment policy of community work

centres there is no clause prohibiting the relatives of officers and officials of DSIDC from applying for work space for allotment. In view of the

above, if any relative of officers of DSIDC is allotted any work space, it cannot be termed as allotment in violation of the said policy.

3. The counter-affidavit further discloses that in 138th Meeting of the Board of Directors of the respondent-Corporation held on 29.9.1997, the

allotment conditions of Community Work Centres were approved as follows:

- 1) The allotment is to be made to persons with monthly income not exceeding Rs. 1500/-.
- 2) One work centre is to be allotted to one person in a family. A family is defined as husband/wife and their minor children.
- 3) The sheds are to be allotted at the rate of Rs. 145/- per square feet and amount is to be realised in 15 years as under:
 - a) At the time of allotment and possession: 25% of the cost.
 - b) Moratorium for two years; only interest to be charged on balance of the cost along with monthly charge @ 2% for maintenance.
 - c) Balance cost in monthly Installment of 15 years with rate of interest at 10% per annum.
 - d) The allottee are to be resident of the same municipal ward as the centre concerned.

3. The allotment is made to the persons who are residents within 5 km. radius of the location of the centre.

4. It is stated that allotment was made on the basis of the aforesaid criteria. As there was no clause prohibiting the relatives of officers and officials

of DSIDC from applying for work space for allotment and if any relative of officers of DSIDC is allotted any work space, it cannot be termed as

allotment in violation of the said policy.

5. The aforesaid affidavit was filed pursuant to direction of the court on 16.11.2000. However, on 19.7.2001 when the matter came up for

hearing, it was informed to the court that matter was being inquired into by the Vigilance Wing of the respondent-Corporation. In these

circumstances respondent No. 1 was directed to file a copy of the report of the Vigilance Wing. It was also directed that additional report of

present incumbent a Chairman be also field on the controversy involved. Pursuant to the aforesaid directions the Managing Director, DSIDC filed

his report dated 19.2.2002 reiterating that the conditions for allotment as mentioned in the brochure did not prohibit employees of DSIDC or their

family members to seek allotment of CWC work space. The procedure for allotment was also transparent. After the eligibility was checked all the

cases were put up to a public draw (lottery) which was supervised by senior officers of Government of Delhi. No anomaly was deducted in the

procedure for allotment and no complaint was received by any of the applicant. Paras 2 and 3 of this report contained the following averments in

respect of 24 employees named in the Public Interest Litigation:

2. The 24 employees named in the PIL are alleged to have been allotted CWC Work Centres/Indl. Sheds were issued memos to furnish details.

Only ten of these employees have admitted that their family members have been allotted CWC Work Centres. The remaining 14 have submitted

Affidavit to the effect that no CWC Work Space/Indl. Shed has been allotted to any of their family dependent members. The cases of these ten

employees are being scrutinized with respect to DSIDC Staff Service Rules and the definition of family member.

3. The DSIDC Staff Service Rules 43(P), which are reproduced below, requires employee to acquire/dispose off immovable property by way of

Lease/Mortgage/Sale/Gift with the permission/knowledge of management.

Rule 43(P) of DSIDC Staff Service Rules 1978-Acquisition or disposal of property:

(i) No employee, except with the knowledge of the Management, shall acquire or dispose off any immovable property by way of lease, mortgage,

sale, gift or otherwise either in his own name or in the name of any member of his family.

(ii) Every employee shall on his first appointment and thereafter at the interval of every 12 months or at any such time the Management may deem

fit shall submit the return in the prescribed format for indicating all immovable property acquired or inherited in his own name or in the name of any

member of his family and also submit particulars as prescribed if any movable property purchased by him during the period exceeding Rs. 3000/-

in value.

The employee is obliged to intimate about the acquisition of any immovable property and source of its funding within a reasonable time. All the

above mentioned cases of ten employees are being scrutinized for appropriate action as per DSIDC Staff Service Rules."".

6. Since report was not filed, direction was given to complete investigation and submit the report and ultimately Shri J. Motiwal, Divisional

Manager (Vigilance) DSIDC has filed his affidavit based on the investigation made by him. It states that clarification was sought from the 23

officials whose names are mentioned in the petition. 10 officials admitted allotment to work spaces being made to relatives. However, as per the

brochure issued in respect of allotment of the work spaces did not contain any restriction on the members of the staff or their family members

applying or seeking allotment of the work spaces and the allotment was conducted by a public draw of lots, the only obligation on the part of these

employees was to inform the Corporation about the transaction/acquisition of the work spaces by child/spouse/relatives. In view of the above

notices were issued to these 10 officials who submitted their replies and it was found that six employees failed to inform the Corporation within

reasonable time about the allotment of the work space in the name of their wife/husband/relatives and after consideration of the matter in detail the

disciplinary authority decided to administer recordable warning to these officials vide memo dated 9.5.2002. In respect of three employees, it is

stated that the allotment had been made in favor of their daughters who are not dependent on them and, Therefore, in one case allotment was

made in the name of her mother-in-law and they were not required to intimate the same in terms of Rule 2(K) of the Staff Services Rules.

7. The aforesaid sequence of events amply depicts that because of defective policy of the Corporation the public gets a feeling that the officials of

the respondent-Corporation have distributed largesse to their own kith and kin. In this writ petition itself it is alleged that the very purpose of such

schemes of development which are initiated to provide employment to the poor and educated unemployed young generation is defeated when

honest and poor person do not get the allotment which is made by officials of the Corporation to favor their own persons. In fact, DSIDC"s own

Vigilance Department had in its report dated 13.4.2000 pointed out certain irregularities. There may be some force in the contention of Ms. Geeta

Mittal, learned counsel appearing for respondent No. 1 to the effect that when large scale allotment are made, few such allotments may be made in

favor of the relatives of the officials who are otherwise eligible to get the said allotment on merits. However, if adequate safeguards are made for

allotments and transparency is maintained while making these allotments, public bodies like respondent-Corporation would not incur the wrath of

the public and would be able to save itself of the allegations of favoritism etc.

8. Since these allotments were made long ago which were only 10 in number and happened to be in favor of near relatives of some officials out of

100s of such allotments made and in view of the undertaking given by learned counsel for the respondent at the bar to the effect that respondent

No. 1 will take proper care to rectify the situation in future, it may not be necessary to give any further direction in the present petition. We trust

and hope that the assurance given by respondent No. 1 is solemn assurance and it would formulate proper policy and act thereupon in future while

making such allotments.

9. Petition stands disposed of. No costs.