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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10876/2022

SMT USHA RANI & ANR

..... Petitioner

Through: Mr. J. V. Rana and Mr. Sanjay Rana,
Advocates

versus

UNION OF INDIA & ORS

..... Respondent

Through: Ms. Reema Khorana, Advocate for R-
1
Mr. Ujjwal Malhotra and Mr. Vasuh
Mishra, Advocates for R-2, 3 and 4

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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20.07.2022

CM APPL. 31662/2022

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 10876/2022

1. The instant petition under Articles 226 and 227 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“a. Issue a Writ of Certiorari, Order or direction thereby quashing the impugned Order dated 15.06.2022 passed by the Respondent No. 4.

b. Issue a writ of Mandamus, Order or direction thereby

directing Respondent No.4 to mutate in the name of Petitioners the 1/4TH share of the agricultural land i.e. 5 Bigha & 13.3/4 Biswa out of total 22 Bigha & 15 Biswa situated in the revenue estate of village Madanpur Dabas, Delhi-81, in the interest of justice and equity; and/ or

c. Issue a writ of Mandamus, Order or direction thereby directing the Respondent No. 1 to 3 to designate any other appropriate Office/Department/Authority to mutate in the name of Petitioners the 1/4TH share of the agricultural Land measuring 5 Bigha & 13.3/4 Biswa out of total 22 Bigha & 15 Biswa Situated in the Revenue Estate of Village Madanpur Dabas, Delhi-81, in the interest of justice and equity; and/ or

d. Issue a Writ of Certiorari, Order or Direction thereby quashing any Written Executive instruction, Circular or Policy issued by Respondent No. 1 to 3 Pertaining to Mutation in the name of Petitioners or similarly placed persons, being Illegal and in defiance of statute, in the interest of justice and equity; and / or

e. Pass any further or other Orders as this Hon'ble Court deems fit in the present facts and circumstances.”

2. Learned counsel appearing on behalf of the petitioner submitted that on an earlier occasion the petitioner had filed the Writ Petition bearing W.P.(C) No. 7907/2022 praying for issuance of writ of mandamus directing the respondent no. 4 to mutate the 1/4th share of agricultural land in question in the name of the petitioners.

3. It is submitted that the application for mutation of the said property has been filed before the concerned Tehsildar on 21st March, 2022 but the same was not decided by the concerned Tehsildar. It is submitted that on an earlier occasion, at the request of the petitioner and no objection on behalf of

the respondent, this Court had directed the concerned Tehsildar to pass an appropriate order on the aforesaid pending application in accordance with law and accordingly the said writ petition was disposed of.

4. Learned counsel for the petitioner submitted that he had placed the order of this Court before the concerned Tehsildar for compliance, thereafter the concerned Tehsildar passed the impugned order dated 15th June, 2022 without application of mind and assigning any reasons, merely stating that the mutation process has ceased in light of the new Land Pooling Policy. It is submitted that the concerned Tehsildar did not disclose the details of the said policy.

5. *Per Contra*, proxy counsel appearing on behalf of respondents submitted that the said application was adjudicated by the concerned Tehsildar after taking due consideration of the new policy, and therefore there is no illegality in the said impugned order.

6. Heard learned counsel for the parties and perused the record.

7. Reason is the soul of justice. Any order passed, whether in the exercise of judicial or administrative powers vested in the authority, must be speaking. As goes the judicial precedents, an order disposing of an application necessarily requires recording of reasons in support of the conclusions arrived at in the order and failure to give reasons tantamount to denial of justice.

8. In fact, the insistence on recording of reasons is meant to further the principles of natural justice, and specifically for ensuring that justice must not only be done but it also be seen to be done. Recording of reasons also operates as a legitimate restraint on any possible arbitrary exercise of judicial or quasi-judicial or administrative power by any authority and as

such is a facilitator of Rule of Law.

9. The conduct of the concerned Tehsildar in handling the instant set of cases is nothing but appalling. On an earlier occasion, when the application was moved on 21st March, 2022, the concerned Tehsildar did not bother to decide the application in accordance with law. The said application remained pending in limbo with him from 21st March, 2022 to 23rd May, 2022. Consequently, the petitioner was constrained to file the Writ Petition bearing W.P.(C) 7907/2022, wherein upon hearing the parties present before the Court, this Court passed clear directions to the concerned Tehsildar to decide the application within four weeks in accordance with law.

10. It is observed with great dismay and disappointment that the concerned Tehsildar rejected the application by passing skeletal and mechanical order, which is cited below:

“Due to new Land Pooling Policy, mutation process has been ceased. So that, Mutation process could not be carried out, hence rejected.”

This order *sans* reasoning is despite the fact that the matter was remanded to him by the Orders of this Court for disposal.

11. In light of the aforesaid and taking into consideration the casual approach of the concerned Tehsildar in passing the impugned order dated 15th June, 2022 passed without assigning any sufficient reasons despite the directions of this Court, the Tehsildar (Rohini), North West District is directed to be present before this Court at 10:30 AM tomorrow to explain the reasons and circumstances for passing the impugned Order *de hors* reasoning.

12. Let the matter be listed on 21st July, 2022 at 10:30 AM.

13. Registrar is directed to send a Copy of the order to the concerned Tehsildar for compliance.

CHANDRA DHARI SINGH, J

JULY 20, 2022
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