JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 975 of 2014

Sardar Muhammad Nawaz

Versus

Managing Director, NPF, etc.

Date of Hearing	:	22.04.2022.
Petitioner by	:	Arif Khan, Advocate
Respondent by	:	Syed Asghar Hussain Sabzwari, Advocate

ARBAB MUHAMMAD TAHIR, J. Thorough the instant writ petition, the petitioner is seeking directions upon the respondents to declare the impugned notification dated 25.02.2011, to be issued in violation of law void ab-initio and ineffective upon the right of the petitioner and restore the plot of the petitioner.

FACTS OF THE MATTER

The facts emanating from the perusal of the instant writ are that the respondent i.e. National Police Foundation "referred to as **(NPF)"** invited applications for allotment of plots, the petitioner also applied for the plot measuring 2 kanal and got a membership bearing No. 1771 in the year 1989-1990; that the petitioner paid the requisite consideration fee of Rs. 60,000/- to the respondents; that after passage of considerable time, the respondents showed inability to allot the plot measuring 2 Kanal to the petitioner and offered him 1 Kanal plot for half of the amount. Petitioner left with no other option had to consent to the said offer of the respondents; that in view of the above, plot bearing No. 211 measuring 500Sq. Yrd in Lohi Bare, Islamabad was allotted to the petitioner on 04.08.1990; that in furtherance of the said allotment order, the petitioner received letter from the respondents for payment of remaining installments, which was duly paid by the petitioner; that after sometime through newspapers, the petitioner came to know regarding the scam of NPF, plots whereafter the petitioner went to the respondents office, where he was informed that his plot has been cancelled way back in the year, 2003 vide orders dated 29.12.2003.

3. The learned counsel for the petitioner vehemently contended that the petitioner being a legal allottee after submission of the requisite amounts as and when demanded by the respondents; that the petitioner

has invested his life savings with the respondents; that the impugned order dated 29.12.2003 was issued at the back of the petitioner and the petitioner has been condemned unheard; that the petitioner has a vested right which has been denied by the respondents by not considering him and cancelling his legally allotted plot; that the petitioner since had applied for a plot measuring 2 Kanal and paid the requisite amounts to the respondents which has been duly acknowledged by the respondents; that it was the utter surprise of the petitioner , who came to know through newspapers regarding the scam in the respondents housing scheme; that the petitioner when offered 1 Kanal plot and was allotted the same bearing No. 211 measuring 500 Sq. Yrd had complied with all the pre-requisites required by the respondents; that the petitioner has been suffering since 1989 for recognition of his legal right of ownership, which is being denied by the respondents in flagrant violation of the laws of the land; that the petitioner invokes the jurisdiction of this court under Article 199 being aggrieved of the impugned order dated 29.12.2003; that it is inalienable right of the petitioner to own and possess property as provided under Article 24 of the Constitution of Islamic Republic of Pakistan.

3. On the other hand learned counsel for the respondent raised objection with regard to the maintainability of the instant writ petition and contended that the said scheme is situated at Rawalpindi therefore, this Court lacks jurisdiction to entertain the instant writ petition; that the NPF is a charitable trust established under the charitable endowment Act, 1890; that the foundation does not perform function in connection to the affairs of the federation or province; that the foundation is a non-statutory body; that it is not an agency as contemplated in the law that the foundation is not amenable to the writ jurisdiction; that the petition involves factual controversy which cannot be resolved while exercising power in writ jurisdiction; that no fundamental or civil right of the petitioner has been alleged to be violated by the respondents, hence the instant petition is not maintainable; that due to afflux of time and as all the plots in the said scheme has been allotted and distributed, as such this petition has become infructuous; that the petitioner is seeking equitable relief and by suppressing material facts is not entitled to such; that as a matter of fact the petitioner had already filed a civil suit through his attorney Mr. Muhammad Iqbal, wherein same relief was claimed against the respondents and said suit

has been dismissed on 06.04.2010, for non-prosecution by the court of competent jurisdiction; that the petitioner himself is at fault being a defaulter as he failed to pay the balance price as required and numerous notice were sent to him to which the petitioner paid no heed; that on noncompliance of the above said notices publications were published in daily Newspapers widely circulated in the country; that the plot has been cancelled in the way back in the year, 2003, after meeting all the requisite formalities; that the petition suffers badly from laches.

4. I have heard the learned counsel for the parties and gone through the record with their able assistance.

5. Perusal of the record reveals that the petitioner applied for the plot in the year 1989-1990 and deposited certain amounts with the respondent and after sometime he was offered plot of 1 Kanal for which he deposited requisite amounts and later on the said plot was not allocated to the petitioner. Plot bearing No. 211 measuring 500Sq. Yrd in Lohi Bher, Islamabad was allotted to the petitioner on 04.08.1990, in furtherance of the said allotment order the petitioner received letter from the respondents for payment of remaining installments, which was duly paid by the petitioner and after sometime through newspapers the petitioner came to know regarding the scam of NPF, plots whereafter the petitioner went to the respondent office, where he was informed that his plot has been cancelled way back in the year, 2003 vide orders dated 29.12.2003 impugned herein.

6. The controversy between the petitioner ad the respondent is regarding the allotment of a plot by the respondents in NPF Housing scheme. The petitioner has invested in the said scheme by the way of purchasing a plot and it is an admitted fact of the matter that the petitioner deposited with the respondents the requisite amounts for the allotment of the plot as required by the respondents.

7. The fact of the matter remains that there were certain irregularities committed by the respondents where no proper balloting process was conducted by the officials of the NPF, as a result, the Hon'ble Apex Court initiated a *suo-moto* action against the respondents in which commission was constituted to scrutinize the matter in the judgment of Hon'ble Apex Court reported as **(PLD 2014 SC 389)**.

8. The pivotal question that needs to be answered is the maintainability of the writ petition, as the society is not performing any function relating to the affairs of federation rather it has been established

under the charitable endowment Act, 1890 as charitable trust. Furthermore, since the question raised by the petitioner involves disputed question of fact therefore, the same cannot be decided while exercising the constitutional jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

9. Keeping in view the above, the instant writ petition is **dismissed** being not maintainable.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Announced in an open Court on _____05.2022.

JUDGE

//Kamran//