

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH***

**CWP No.16595 of 2001
Date of Decision:-12.02.2015**

Suresh Gahlot and others

...Petitioners

Versus

Housing Board, Haryana and another

...Respondents

***CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA***

Present:- Mr. Sushil Jain, Advocate
for the petitioners.

Ms. Geeta Sharma, Advocate
for the respondents.

HEMANT GUPTA J.(Oral)

The petitioners have sought a writ of mandamus directing the respondents to allot a dwelling unit as per the applications submitted by them in response to advertisement issued on 1.2.2001.

The Housing Board, Haryana published an advertisement inviting applications for 146 dwelling units at Sonapat. The last date for filing the applications was 2.3.2001. In response to such advertisement, only 57 applications were received. The draw of lots was held on 3.10.2001 in respect of 42 dwelling units. The grievance of the petitioners is that since the number of applicants was less than dwelling units available, therefore, the dwelling units should have been given to all the

applicants particularly when the advertisement itself contemplated that a waiting list of 25% of the dwelling units would be maintained. It is contended that on 8.10.2001 another advertisement was issued inviting applications for remaining 104 dwelling units. Admittedly, the petitioners have not responded to such advertisement.

In the reply filed, it is asserted that the Board has reserved the right to increase or decrease the number of dwelling units depending upon the actual feasibility at site during the course of construction. It was pointed out that since the response was not good and considering all possible aspects of the said Housing colony, the respondent Board revised the lay out plan of the colony and ultimately decided to construct only 42 dwelling units in Sector 23, Sonapat. The draw of lots was held only for 42 dwelling units. It is also pointed out that 10 applicants including the petitioners No.1 to 5 and 6 were in the waiting list, whereas petitioners No. 3 and 4 were unsuccessful in the draw of lots. It is also pointed out that on 8.10.2001 the Board launched a new scheme in the same sector.

Learned counsel for the petitioners vehemently argued that since the number of applicants were less than the number of dwelling units, proposed to be constructed, therefore, the action of the respondents in restricting the number of dwelling units to be constructed is arbitrary, irrational and without any reasonable objective to be achieved.

We do not find that by submitting an application in pursuance to an advertisement, the petitioners get any right of allotment of dwelling units. The only right pursuing to an application in response to advertisement is right of consideration. A Full Bench of this Court in **Surjit Singh vs. State of Punjab AIR 1980 Punjab & Haryana** has considered the right of an applicant who applied in response to an advertisement. It has been held that mere submission of an application to seek allotment of

plot does not confirm any right. It was so held as under:-

“By filing an application in accordance with law, the applicant only gets a right of consideration of his application, but he does not get a vested right for allotment of the plot. The conditions laid down in the first scheme or the provisions of rule 5(3) do not give any right to the applicants to claim allotment of plots as a matter of right. There is nothing in the scheme or the Act or the Rules which requires the adoption of the principle of ‘first come first served’ at the time of allotment, or debars the Government from adopting the method of drawing lots. The petitioners have not been able to lay foundation for establishing their right which could legally be enforced and the petitioners have completely failed to make out a case for the exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India.”

Therefore, for the reason that there were more dwelling units available than the applications received, it does not confer any right to the petitioner to seek allotment of dwelling units. It is a matter of policy as to whether all the dwelling units should be allotted in view of the lukewarm response to the Scheme. If the petitioners were willing to seek allotment, they could very well respond to subsequent advertisement issued thereafter on 8.10.2001. Having failed to apply in respect of subsequent advertisement, we do not find that the petitioners can be permitted to claim allotment of dwelling units only on the basis of the applications submitted by them in response to advertisement issued on 1.2.2001.

Consequently, we do not find any merit in the writ petition and the same is hereby dismissed.

(HEMANT GUPTA)
JUDGE

February 12, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE