

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 14028 of 2011 (O&M)

Date of Decision: 24.08.2015

Mukesh & another

--Petitioners

Versus

State of Haryana & others

--Respondents

**CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR.
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.**

Present:- Mr. Raman B. Garg, Advocate for the petitioners.

Mr. Deepak Balyan, Addl. A.G., Haryana.

Mr. Kamal Rathi, Advocate for
Mr. Narinder Singh, Advocate for
respondent no.3.

Mr. Sanjay Vij, Advocate for
respondent no.4.

Mr. Ashwani Talwar, Advocate for
Housing Board, Haryana.

S.J. VAZIFDAR, A.C.J. (Oral)

The petitioners have sought a writ of Mandamus directing the respondents to allot to them plots under the Economically Weaker Section Scheme (EWS Scheme) launched in the year 2007-08. The petitioners have also sought a writ of certiorari to quash a policy dated 3.2.2010.

The petitioners' case is that there was a policy in the year 2007-08 which would have entitled them to the allotment of plot under the EWS category. It is important to note that the petitioners had not been allotted any plots under that category.

The policy of 2007-08 has undergone a change from time to time. The respondents contend that they reconsidered the policies also in view of certain observations made by the previous Division Benches of this

Court. The attempt was to make the system more rational and transparent. The policy of 3.2.2010 annexed as Annexure P-1 refers to the previous policy which reserved 20% of the total number of plots for the EWS category at the rate mentioned therein. The petitioners' grievance is that now a certain number of flats are reserved for the persons in the category of Below Poverty Line (BPL). Petitioners submit that until and unless all persons in the EWS category are allotted plots, the persons in BPL category ought not to be considered. Clause 4 of the policy dated 3.2.2010, which was under challenge, reads as under:-

“4. Where the colonizers have already invited applications from public regarding allotment of EWS plots/flats, they may be directed to return the applications and refund the application money along with interest earned by them thereon within 15 days of issuance of these directions.”

We are informed that the petitioners have infact been refunded the amounts that they had paid at the time of applications. It is not as if the persons in the EWS category have been excluded from consideration altogether. The officials respondents have now devised a new policy whereunder plots are not to be allotted category wise to individuals. The plots are now handed over to the Housing Board, Haryana, who will construct multistorey buildings and allot the same to the persons belonging to EWS and BPL categories as per the policy. The present policy dated 8.7.2013 fixes the quota for the EWS and BPL flats.

Firstly the official respondents were not prevented from changing the policy at least in such cases where vested rights had not already accrued. Vested rights had not accrued in the present case. The allotments had not been made. Only applications had been invited. These

applications have now been returned. The petitioners are now entitled to apply for the flats in accordance to the new policy.

Mr. Ashwani Talwar, Advocate appearing on behalf of Housing Board, Haryana states that applications will be invited afresh in respect of flats which have not already been allotted and the petitioners are at liberty to apply for the same, if, they are eligible.

Writ petition is disposed of accordingly.

(S.J. Vazifdar)
Acting Chief Justice

(Tejinder Singh Dhindsa)
Judge

24.08.2015
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