

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 10620 of 2015 (O&M)
Date of Decision: 21.10.2015

Deepak Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present : Mr. Sandeep Verma, Advocate, for the petitioner.
Mr. Rahul Dev Singh, Deputy Advocate General, Haryana,
for respondent No.1.
Mr. Ashwani Talwar, Advocate, for respondent Nos.2 to 4.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE

The petitioner has challenged a regulation made under the Housing Board Haryana (Allotment, Management and Sale of Tenements) Regulation, 1972, which reads as under:-

“12. Refund of amount of initial payment- If the applicant withdraws his application till the date of offer of house by the Board, 10% of the amount deposited with the application at the time of registration shall be forfeited to the Board and balance refunded to him without any interest.”

The petitioner has also sought an order directing the respondents to refund the entire initial installment/registration amount paid by him to the respondents upon his withdrawal from the draw of lots for the sale of tenements floated by the respondents under the ‘*Economically Weaker Section*’ (EWS) and L.I.G. category.

2. As the challenge in this writ petition is essentially to the above regulation, it is necessary to state the facts only briefly.

The respondents floated a housing scheme for the sale or hire-purchase of tenements from 17.08.2014 to 17.10.2014. The said regulations were admittedly applicable. The scheme offered allotment of tenements constructed by the Housing Board, Haryana under various categories including EWS scheme. The petitioner admittedly belongs to the 'Economically Weaker Section' (EWS). The petitioner applied for the allotment of a flat under the EWS scheme on 07.10.2014. He deposited a sum of Rs. 1,16,000/- as the initial installment by obtaining a loan from respondent No.4-Serve Haryana Gramin Bank. Thereafter the petitioner by his letter dated 24.12.2014 i.e. in less than three months informed the respondents that he was not interested in the scheme and requested the respondents not to include his application in the draw of lots. He requested the respondents to cancel his application.

The respondents accordingly through the bank arranged for the refund of the petitioner's deposit after forfeiting 10% of the application money as they were entitled to under regulation 12 of the said regulations.

4. The petitioner submitted that the aforesaid rule is arbitrary and unfair especially to the persons in the EWS scheme. We do not agree. Infact the rule protects far greater and far more important rights of the public at large and especially those belonging to EWS. It ensures that fake applications for allotment are not made. It ensures that only genuine applicants interested in shelter apply for the allotment of such flats. The absence of such a provision would facilitate fake applications and be prejudicial to the genuine applicants. For instance, a person could manage to make multiple applications in the names of different persons and thereafter by a private arrangement have the benefit of allotment, if made. This would be unfair to the genuine applicants who make only one application for

allotment. Infact the parties are entitled to make only one application for allotment.

5. Schemes such as these are for the benefit of various sections of the society including Economically Weaker Section. Although the petitioner himself may be a genuine applicant and appears to be in genuine difficulty in financing the purchase of the flat any further, we are afraid it is not possible to strike down this rule as being arbitrary or unfair for we find that it serves a very important safeguard for genuine applicants under the EWS scheme.

6. Mr. Verma, learned counsel appearing for the petitioner submitted that there is no indication as to when the draw of lots would be held and when the flats would be allotted. He, therefore, submitted that there ought to be no deduction while repaying the deposit upon a person withdrawing his application. He contended that people cannot be expected to wait for an indefinite period.

7. The respondents on the other hand contended that the draw of lots are normally held within a reasonable period of time.

8. In this case it is impossible to state that the draw of lots has been held up for an unduly long period of time. The petitioner's application for refund was made within less than three months' of the application for allotment. It is not necessary, therefore, to consider in this petition cases where the draw of lots and allotment of flats are delayed for an unduly or unreasonably long period of time.

9. The petition is, therefore, dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

21.10.2015
'ravinder'

(TEJINDER SINGH DHINDSA)
JUDGE