

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.17971 of 2015 (O&M)
Date of Decision: 11.12.2015

Deepak

--Petitioner

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 petitioner.

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

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

The petitioner has challenged the respondents' action of amending one of the terms of the advertisements inviting applications for allotment of flats in the Economically Weaker Sections (EWS) Category. The applications were originally invited by an advertisement issued in the year 2014. The applications were to be submitted between 1.7.2014 to 31.7.2014. The relevant terms and conditions of the advertisement are as follows:-

“Mode of Allotment/Draw of Lots:

1. xxx xxx xxx
2. xxx xxx xxx
3. xxx xxx xxx

(The draw of lots for declaring successful applicants will be subject to the decision of the Hon'ble Supreme Court of India in the case titled Kiran and others vs. State of Haryana and others SLP No.12501 of 2012.

General:

- a) xxx xxx xxx
- b) xxx xxx xxx

c) *The terms and conditions will be followed in general but CWP No.17971 of 2015 (O&M)* -2-

Housing Board Haryana reserves the right to alter any of these as and when considered necessary.

d) xxx xxx xxx

e) *The Board reserves the right to withdraw/amend/cancel the scheme at its discretion without assigning any reason.*

Reservation:

The applicant should apply against one of the following categories by indicating code in the application form as given to each category.

Notes:

1. *The spill over unsuccessful applicants in any of the reserved category shall not be considered in the general pool.”*

2. The petitioner submitted his application duly filled in and within the stipulated period. The respondents issued a public notice dated 9.8.2014 stating that the draw of lots would be held on 27.8.2015. However, before 27.8.2015 the respondents amended the above regulations by now providing as follows:-

“Note:-

1. xxx xxx xxx

2. *The spill over unsuccessful applicants in any of the reserved categories shall be considered again in the general pool.”*

3. It is not contended that had the amended provisions been there in the original regulations/advertisement the same would have been permissible. It is, however, contended that this amended regulation providing that the spill over of unsuccessful applicants in any of the reserved categories shall be considered again in the general pool, cannot be introduced with retrospective effect.

4. The submission cannot be accepted in view of the fact that the original advertisement itself expressly reserved to the respondents the right

to alter any of the terms and conditions. It also reserved to the respondents the right to withdraw/amend/cancel the scheme at its discretion without assigning any reason.

5. In the circumstances, it is not possible to quash the stipulation in the fresh notification.

The petition is, accordingly, dismissed.

(S.J. Vazifdar)
Acting Chief Justice

(Tejinder Singh Dhindsa)
Judge

11.12.2015
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