

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.24496 of 2014

DATE OF DECISION: SEPTEMBER 30, 2015

Inderjeet Singh son of Avtar SinghPetitioner

Versus

State of Haryana and othersRespondents

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

Present: Mr.RS Mamli, Advocate for the petitioner.

Mr.Arjun Singh Yadav, Assistant Advocate General,
Haryana.

Mr.VK Vashishta, Advocate for respondents 2 to 4.

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TEJINDER SINGH DHINDSA, J.

Petitioner assails the action of the respondent-Housing Board Haryana in having cancelled the registration of an Economically Weaker Section Flat at Kurukshetra and forfeiting the entire amount that had been deposited by him.

2. Housing Board Haryana (hereinafter to be referred as 'the Board') floated a scheme for registration and allotment of 4530 built-up triple storeyed flats for BPL (below poverty line) families on Hire Purchase Basis. In such scheme, 13 cities across the State were covered including Kurukshetra for which 537 flats were earmarked. The period of registration for such scheme was 15.9.2010 to 15.10.2010. Likewise, a similar scheme was floated

separately for Pinjore, District Kalka and for which the period of registration was stipulated between 15.12.2010 to 15.1.2011.

3. The petitioner being a BPL card holder was eligible for allotment of the flats in question and submitted his application along with 10% earnest money under both the schemes. Petitioner was assigned registration No.13 at Pinjore and registration No.337 at Kurukshetra. In the draw of lots that was held simultaneously, the petitioner was declared successful in both the schemes i.e. for a flat at Pinjore as well as at Kurukshetra. The petitioner pursued his allotment at Kurukshetra and made the requisite deposits of money in relation thereto. Upon signing the required hire purchase tenancy agreement, possession of Economically Weaker Section flat No.2388, 2nd Floor, Sector 32, Kurukshetra was issued in his favour.

4. Vide order dated 19.6.2014 issued by respondent No.2 i.e. the Chief Administrator of the Board, Registration No.337 pertaining to the flat at Kurukshetra has been cancelled and it has been directed that the entire amount already deposited by the petitioner would stand forfeited. Writ of certiorari is sought seeking quashing of the order dated 19.6.2014 at Annexure P6.

5. Counsel for the parties have been heard.

6. Perusal of the impugned order dated 19.6.2014, Annexure P6, would reveal that registration of the Economically Weaker Section flat has been cancelled on the grounds that the petitioner had violated the terms and conditions of the Brochure by applying for more than one flat and secondly, he had concealed the information regarding double allotment.

7. Under the scheme for registration and allotment of the built-up triple storeyed flats for BPL families on Hire Purchase Basis, the terms and conditions of eligibility were contained in a brochure and read in the following terms:

"(i) The applicant should belong to Below Poverty Line (BPL) family of Haryana only.

(ii) The applicant, his/her spouse or his/her dependent children do not own any flat/plot in any HUDA Sector/ licensed colony in any of the urban area in the State.

(iii) The applicant must be a citizen of India.

(iv) The applicant must have attained the age of majority at the time of registration.

(v) An eligible person, his or her spouse, or any of his/her dependent members cannot submit more than one application under the scheme."

It was further provided that suppression/concealment of facts, at any stage, would result in cancellation of registration/ allotment of the flat besides forfeiture of the entire amount already deposited.

8. Under the terms and conditions of allotment, an eligible person could not submit more than one application under 'the scheme'. As regards the petitioner belonging to a BPL family, there is no dispute. The city of Kurukshetra was covered under a separate scheme as opposed to Pinjore. There was no bar insofar as submitting applications under separate schemes. The embargo was only with regard to submitting more than one application under 'the scheme'. Even in the show cause notice

dated 4.7.2013, Annexure P3, the petitioner had been called upon to explain as to why after having been successful in the draw of lots for allotment of flats both at Pinjore and Kurukshetra, he did not apply for cancellation of registration/allotment of either one of the flats. Show cause was not in relation to having applied for more than one flat. The impugned order dated 19.6.2014, Annexure P6, cancelling the registration of the flat on the basis that the petitioner had applied for more than one flat albeit in separate schemes, as such, cannot sustain.

9. The clear objective of the condition, whereby an eligible person is not to submit more than one application under 'the scheme', is that a person belonging to a BPL family cannot avail of multiple/double allotments of Economically Weaker Section tenements at concessional rates. As on the relevant dates on which the petitioner had submitted his applications for the two separate schemes, he did not own any flat under a HUDA Sector/licensed colony. Allotments both at Pinjore and Kurukshetra came through in a draw of lots held simultaneously. As per pleadings on record, it has gone uncontroverted that after having remained successful in the draw of lots, the petitioner has not pursued his allotment of the flat at Pinjore and has not even deposited a single penny in pursuance thereof apart from the initial earnest money/ application amount. The requisite deposits of money were made only in relation to the allotment of a flat in his favour at Kurukshetra. Clearly, there was no intent on the part of the petitioner to cheat and derive any advantage of a double allotment.

10. We find that the petitioner was certainly remiss in not having approached the concerned authorities for cancellation of his registration and allotment of the flat at Pinjore. However, cancellation of his flat at Kurukshetra on account of such lapse would be unduly harsh. Mr.Mamli, learned counsel has made a statement during the course of arguments that the petitioner is ready and willing to suffer forfeiture of the 10% earnest money/application money made at the time of submission of application for the tenements at Pinjore. We find such statement to be fair and accept the same.

11. In the totality of circumstances, we find that the petitioner, who otherwise belongs to the Economically Weaker Section, is not the beneficiary of a double allotment and neither did his conduct reflect any such intent.

12. In view of the above, the writ petition is allowed. The impugned order dated 19.6.2014, Annexure P6, is set aside. The allotment of the flat in question at Kurukshetra shall stand restored in his favour. Petitioner, however, would be liable to deposit the outstanding dues, if any, in respect of such flat along with interest @ 8% per annum within a period of four weeks from the date a demand is raised by the Board.

13. Petition allowed.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

SEPTEMBER 30, 2015
SRM

Note: Whether referred to Reporter? (Yes/No)