IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.25753 of 2015 (O&M)
Date of Decision: 09.12.2015

M/s Belz Instruments Private Limited & others --Petitioners

Versus

State of Haryana & another --Respondents

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

Present:- Mr. Ashish Aggarwal, Sr. Advocate with
Mr. M.S. Dalal, Advocate for the petitioners.

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

The petitioners have challenged communications dated 28.5.2015/1.6.2015 refunding the earnest amount deposited by them treating as at an end their applications for the allotment of industrial plots pursuant to an advertisement dated 3.2.2012 under the then existing policy and guidelines.

2. By the said advertisement applications were invited for allotment of industrial plots of varying sizes. The petitioners applied for plots admeasuring 450 sq. meters. As the number of applications were far more than the number of plots to be offered under the scheme, the applicants were interviewed by a Lower Level Screening Committee. Six hundred applicants were shortlisted by the Lower Level Screening Committee including the petitioners. These six hundred applicants were thereafter to be interviewed by the Final Allotment Committee. However, those interviews never took place. Admittedly, nothing further was done in respect of the earlier process.

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3. By a letter dated 23.6.2015 the petitioners were informed that the State Government had reviewed the procedure/policy for allotment of industrial plots/sheds with a view to bring more transparency. The respondents, therefore, refunded the amounts deposited by the petitioners together with interest at 8% per annum thereon. The petitioners were also informed that the respondents were in the process of inviting applications for allotment of industrial plots as per the New Industrial Policy. The New Industrial Policy was infact introduced only on 15.8.2015 and the Estate Management Procedures (EMP), 2015 was introduced only in October, 2015.

4. Identically situated parties who had filed applications along with the petitioners had filed CWP No.14456 of 2015 which was dismissed by an order and judgement of a Division Bench of this Court dated 21.7.2015. The Division Bench has held as under:-

> *"The petitioners had applied in the category of plots measuring 450 square meters. 200 plots were offered under the said category for allotment whereas the applicants exceeded more than three times. The interviews were conducted by the Lower Screening Committee of all the applicants in May, 2013. Out of total applicants, 600 were selected which included the petitioners. The said successful applicants were further to be interviewed by the Final Committee consisting of Managing Director, HSIIDC, Director of Industries, Haryana and senior most General Manager of HSIIDC. In the meantime, no final interview was held and the respondents decided to scrap the allotment of plots in the said category and directed the refund of application money along with simple interest of 8% per annum. No contract had come into being by issuance of mere advertisement and interview by the Lower Level Screening Committee. No final allotment had*

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matured in favour of the petitioners who could claim that vested right had accrued to them. In such a situation no legally enforceable right existed in favour of the petitioners. It was for the State to proceed or not to proceed with the allotment of plots in that category. The action taken by the respondents is not liable to be interfered with unless the same is arbitrary or malafide. Learned counsel for the petitioners has not been able to show any arbitrariness or malafide on the part of the respondent corporation. Still further, while refunding the money to the petitioners, the respondent corporation had awarded interest at the rate of 8% per annum from the date of the closure of the scheme till the amount was returned. Thus, we do not find any merit in the contentions raised on behalf of the petitioners."

5. We are bound by this judgement. It is not disputed that this case is identical to CWP No.14456 of 2015.

6. It was, however, contended that clause 14.6 of the Enterprises Promotion Policy (EMP), 2015 formulated by the Government of Haryana had not been brought to the notice of the Division Bench. Clause 14.6 reads as under:-

"14.6 **Savings and clarifications**

This policy replaces the Industrial & Investment Policy, 2011 and would take effect from 15.08.15. All actions taken under the previous policies or commitments made under those policies would remain protected. Any other issue, which has not been specifically covered under this policy or requires any clarification, would be referred to the Government in the Industries & Commerce Department for decision/clarification and the decision of the Government thereon would form part of the policy."

The contention is that all actions taken under the previous policy and not merely commitments made thereunder would remain

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protected. Accordingly, it was contended that the procedure that had already been initiated under the earlier policy up to the stage of the interview by the Lower Level Committee stands protected.

7. The protection is with reference to the actions taken under the previous policy. The reference is obviously to and in respect of any action taken under the previous policy which created a right in favour of the party. Every action cannot possibly be relied upon for the purpose of claiming a right. Thus, if, allotment had been made, the entire procedure leading to the allotment i.e. all the actions leading to the allotment would remain protected. The steps or action taken under the previous policy which did not lead to the allotment or the creation of any rights are not protected. If it were otherwise it would mean that even the issuance of an advertisement under the 2012 Policy would create a right entitling parties to respond thereto and have their applications considered and if found to be in order, granted. That can never be so. Admittedly, even in the present case no rights had been created in favour of the petitioners under the earlier policy. They cannot, therefore, on the basis of the procedure having been initiated, claim a right to the allotment under the earlier policy. Even under the earlier policy the petitioners were not bound to be allotted the plots. Nor were the respondents bound to carry the matter to its logical conclusion by allotting plots. They could have abandoned the procedure at any stage. The petitioners' case cannot stand on a higher footing merely on account of the introduction of a new policy.

8. The petition, accordingly, is dismissed.

(S.J. Vazifdar)
Acting Chief Justice

(Tejinder Singh Dhindsa)
Judge

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