# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.26244 of 2014(O&M)
Date of decision:-06.11.2017

M/s Auto Door Systems India Pvt. Ltd.
.. Petitioner
vs.
Haryana Urban Development Authority and others
.. Respondents

**Coram: HON'BLE MR.JUSTICE S.J.VAZIFDAR,CHIEF JUSTICE**
**HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Aalok Jagga, Advocate
for the petitioner.

Mr. Abhilaksh Grover, Advocate
for the respondents-HUDA.

**S.J. VAZIFDAR, CHIEF JUSTICE**

The petitioner has challenged the allotment of a plot in favour of the private respondent i.e respondent No.4. However, this challenge is not pressed. The petitioner has also sought an order directing the respondents to allot a half acre plot in its favour at the industrial area at Roz Ka Meo, Faridabad.

The official respondents issued a brochure on 03.08.2007 inviting applications for allotment of industrial plots in various sectors and of various sizes. This petition concerns the allotment of two half acre plots in Roz Ka Meo. The brochure refers only to a single 1/2 acre plot but it is agreed that two half acre plots were available for allotment. Respondent No.4 was allotted one of these plots and the challenge against that allotment is not pressed. Thus the question is whether the petitioner is entitled to the other half acre plot.

The petitioner had applied for a half acre plot. The petitioner had not been selected for the final process. It, therefore, filed CWP No.8273 of 2009 challenging the allotment. The petition was disposed of by the learned Single Judge by a judgment and order dated 06.08.2010. The operative part of the judgment reads thus:

> "Neither the order rejecting the application nor in the reply it is disclosed that any comparative determination was made to the contrary it is admitted fact in the information supplied under RTI Act that no comparative assessment was carried out. This itself is sufficient to establish that the selection/allotment has not been made in a transparent and fair manner and the laid down criteria does not seem to have been applied for assessing the merit of the applicants.
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> This petition is accordingly allowed. Allotment of plots in favour of private respondents No.4 to 8 is hereby set aside. Respondents No.1 to 3 are directed to carry out fresh selection process and make allotment in accordance

with laid down criteria by making assessment of the applicants on the basis of information supplied by them. Respondents No.1 to 3 shall prepare a comparative merit and pass the fresh speaking and reasoned order while making the allotment within a period of three months from the date of receipt of certified copy of this order."

The parties are not clear as to whether there was an existing criteria or not. The parties have relied upon the proceedings of a meeting held on 11.04.2012 for the allotment of the said plot, which was in compliance with the said order and judgment. These minutes indicate that in compliance with the order of this Court , interview letters were sent to 21 applicants for appearing before the Committee on 11.04.2012. The proceedings in this regard are the subject matter of the minutes. The minutes state that the official respondents had evolved the following criteria:

| | | |
|---|---|---|
| "1. | Financial Capability | 10 Marks |
| 2. | Produce capability skills | 15 marks |
| 3. | Ex-service man | 03 marks |
| 4. | Woman Entrepreneur | 03 marks |
| 5. | Un-employed Engineering/ Graduate/Polyclinic/ITI Trained candidates | 03 marks |
| 6. | Oustees of that sector | 03 marks |
| 7. | Expansion/shifting of Existing units | 03 marks |

| | | |
|---|---|---|
| 8. | Viva voca: | 25 marks |
| | Total | 65 marks” |

The minutes further states that only 12 applicants appeared before the Committee for the interview. The minutes tabulate the marks granted to each of them. Only respondent No.4 was held to be eligible. This decision is the subject matter of the present writ petition.

As stated earlier, the petitioner has not pressed the decision to allot the plot to respondent No.4 and has only sought an order directing the official respondents to allot the other half acre plot in its favour. The petitioner is aggrieved by the decision of the Committee granting nil marks in respect of three of the criteria, namely Financial Capability, Woman Entrepreneur and Expansion/Shifting of Existing Units. The decision to allot the Nil marks on the criteria of financial capability is as follows:

> “The applicant has not been able to produce documentary evidence to substantiate the amount shown in the means of finance and also has not submitted any proof of his worth. He has also submitted a certificate dated 13.04.2012 of Punjab National Bank New Delhi vide which it has been confirmed by the Bank that cash credit limit of Rs. 40 lacs and bank guarantee limit of Rs.30 lacs were sanctioned by Bank as at 13.11.2007 by taking collateral security. Bank guarantee amount cannot be considered as term loan for the purpose of

> setting up industry. However, C.C. Limit is sanctioned to meet the day to day requirement of store. Hence, no cognizance can be taken of bank certificate.”

The petitioner had also relied upon the other documents such as document of title in respect of the property, which was valued at ₹528.75 lacs in the valuation report dated 20.06.2008. The projected cost for the project to be implemented on the said plan was ₹138.36 lacs. On the other hand respondent No.4 had a project estimated to cost of ₹1.53 Crore and relied upon the title deed value at ₹1.10 crore. So far as the criteria of expansion/shifting of existing units is concerned, there is no ground or reason for allocation of 'Nil' marks.

In the interest of justice, the respondents ought at least to have indicated the reasons for rejecting the other documents, if the same were furnished by the petitioner. It is difficult to understand how the documents of respondent No.4 could have been accepted and those of the petitioner were rejected.

Mr. Grover, learned counsel for the official respondents fairly stated that the official respondents would have no objection to reconsidering the petitioner’s application on the basis of documents, which were furnished at the relevant time i.e. prior to the final decision regarding the allotment of plots.

Mr. Jagga, learned counsel for the petitioner states that the final decision was taken on 21.11.2012 and not on 11.04.2012.

Mr. Grover, raised another issue. He stated that the other 10 applicants should also be invited in this regard. He stated that it is possible that the Committee may not have taken into consideration certain factors in a similar manner. Mr. Jagga, however, states that the original bidders have to be excluded from the process as they had never challenged the process.

In our view, Mr. Grover's submission is well founded. There is some degree of uncertainty regarding the criteria of financial capability. The mode of determination is not expressely stated. It is possible that the Committee assessed the financial capability qua the projected cost of the project to be implemented on the said property. We see no reason why they be excluded from consideration.

In the circumstances, the official respondents shall consider the documents submitted by the petitioner and the other 10 applicants and on the basis thereof re-consider the petitioner's application.

The writ petition is disposed of in the

above terms.

It is left open to the respondents to charge reasonable interest on the price of the plot from the date on which respondent No.4 was allotted the plot till the date of payment. In the event of respondent No.4 having been charged interest, the petitioner shall also be liable to pay the interest commencing from the said date.

**(S.J. VAZIFDAR)**
**CHIEF JUSTICE**

**(HARINDER SINGH SIDHU)**
**JUDGE**

06.11.2017
Atul

Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No