

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 8359 of 2017
Date of decision:- 04.12.2017

Gurbirinder Singh Chahal

.. Petitioner

vs.

Haryana Urban Development Authority(HUDA) and anr.

.. Respondents

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

Present:- Mr. S.S. Sidhu, Advocate
for the petitioner.

Mr. Deepak Balyan, Advocate
for the respondents-HUDA.

-

S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner seeks refund of the earnest money, deposited by him with his application for allotment of a plot in Fatehabad.

2. The respondents had invited applications for allotment of freehold residential plots in Sector 11 Fatehabad. Pursuant thereto the petitioner had applied for a plot in Fatehabad. The respondents vide letter dated 09.09.2015 stated that the petitioner had been successful in the draw of lots and that he had been allotted a residential plot in Hisar. The petitioner had applied for a plot in Fatehabad and not Hisar. The allotment, therefore, was admittedly incorrectly made in Hisar. By the said letter, the respondents also sought certain information including a certificate of his being a member of the Bar Association of Hisar and a certificate of registration with the Bar Council of Punjab and Haryana High Court.

3. In view of the contentions raised on behalf of the learned counsel for the respondents, it is important to note that the petitioner did not state or contend that he was ever a member of the Bar Association of Fatehabad. He only submitted a certificate of the Bar Association of this Court. The respondents vide letter dated 29.02.2016 stated that the petitioner was only a member of the Punjab and Haryana High Court Bar Association and not of the Fatehabad Bar Association and was, therefore, not eligible for the allotment of a plot. The petitioner in his legal notice dated 15.03.2016 contended that the brochure did not contain a stipulation to the effect that only those advocates can apply who are a member of the Bar Association of Fatehabad.

4. The respondents thereafter stated by a letter dated 13.05.2016 that the petitioner had been allotted a plot in Fatehabad and not in Hisar. By this time, it was almost two year since the petitioner had been allotted the plot.

The petitioner is now not interested in pursuing the allotment of the plot. We will assume when the petitioner was not eligible for allotment of the plot on account of his not being a member of the Bar Association of Fatehabad. In that event he would be entitled to the refund of the amount deposited by him. The only reason for rejecting the refund is that the respondents vide impugned order dated 21.02.2017 contended that the petitioner was not entitled to the refund in view of the following provisions of the brochure

“xxx

xxx

xxx

Only those applicants who become successful in the draw of lots, shall be required to submit requisite proof/documents/affidavit etc. regarding their eligibility

to the State Officer, HUDA, Hisar after receipt of a communication from his office in this regard.

If the successful applicant fails to submit the requisite proof/documents/affidavit within the prescribed period or is found to have concealed facts given wrong information, then in that case the allotment letter shall not be issued and the earnest money deposit (EMD) shall be forfeited.”

5. The letter does not indicate that the petitioner had concealed the facts or given wrong information. It is not the respondents' case that the petitioner had concealed the fact that he was not a member of the Fatehabad Bar Association. Nor is it the respondents' case that he had given any wrong information. The information supplied by the petitioner was not incorrect. There was, therefore, no justification for compelling the petitioner to withdraw the legal notice.

6. In the circumstances, the respondents shall refund the amount deposited by the petitioner by 15.01.2018. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

04.12.2017
dinesh

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No