

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

**CWP No. 10455 of 2018
Date of decision: 26.04.2018**

Shad Anwar and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Jasneet Mehra, Advocate for
Mr. L.M. Gulati, Advocate for the petitioners

Ajay Kumar Mittal,J.

1. The petitioners through the instant petition under Articles 226/227 of the Constitution of India pray for a direction to the respondents to include their application in the ensuing draw of 3BHK flats in Mahira Homes Project situated at Sector 68, Gurugram, Haryana. Further prayer has been made for an order restraining the respondents from draw of 3BHK flats in the above mentioned project.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners are advocates by profession. In response to the advertisement published by M/s Sai Aaina Farms Private Limited, Sector 43, Gurugram-respondent No.3, in the newspaper dated 09.02.2018 under "Affordable Housing Policy 2013", (AHP

Scheme 2013) notified under the provisions of Section 9A of the Haryana Development and Regulation of Urban Areas Act, 1975, the petitioners submitted application form for the allotment of 3BHK flat in the project in question. According to the petitioners, as per advertisement, all 112 flats of 3BHK were available and under this project 5 per cent flats were reserved for management quota. On 13.02.2018, representative of the petitioners visited the office of the respondent No.3 seeking application form for 3BHK flat. Respondent No.3 refused to give the application form on the ground that 3BHK flats were available under management quota only at a premium of ₹ 8 lacs. It was further stated that otherwise one could submit the application form for 2BHK. Accordingly, representative of the petitioners collected the application form of 2BHK. After completing the entire required formalities, the petitioners sent their representative to submit the application form for 3BHK in the office of respondent No.3 but the said application form was not accepted on the ground that the flats were under management quota. The petitioners assert that respondent No.3 in his colourable exercise and unreasonable conduct converted all 112 flats of 3BHK in the management quota in violation of the rules and regulations of the AHP Scheme 2013. The petitioners sent their application form for allotment of 3BHK flat to the District Town Planner (Enforcement), Gurugram but respondent No.3 refused to accept the same. On 20.02.2018, the petitioners submitted representation to the District Town Planner, Gurugram complaining the conduct of respondent No.3. Copy of the representation dated 20.02.2018 sent by the petitioners was forwarded to M/s Sai Aaina Farms Private Limited with the direction to receive the application form as per the policy. The petitioners again sent their representative to submit their application form to the office of respondent No.3 alongwith the letter issued by District Town Planner but again the

application was not accepted. The petitioners thereafter sent representation dated 10.03.2018 to Senior Town Planner (Enforcement and Vigilance), Chandigarh with the request to direct respondent No.3 to accept the application form and to include their names in the draw. The petitioners did not receive any information from Senior Town Planner and District Town Planner in response to their representations. The petitioners approached the respondent authorities for accepting their application form and including their names in the draw. Having received no response, the petitioners have approached this Court through the instant writ petition.

3. We have heard learned counsel for the petitioners.

4. A perusal of the averments made in the writ petition depicts that the relief claimed in the present writ petition is against M/s Sai Aaina Farms Private Limited-respondent No.3, which is a private body.

5. Accordingly, the writ petition is not maintainable under Article 226 of the Constitution of India as respondent No.3 is not a State agency within the mandate of Article 12 of the Constitution of India. Consequently, the writ petition stands dismissed.

(Ajay Kumar Mittal)
Judge

April 26, 2018
‘gs’

(Anupinder Singh Grewal)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

