

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

**CWP No.3714 of 2018
Date of decision: 09.01.2019
AND
CWP No.4268 of 2018**

Sudarshan Facilities Private Ltd.

... Petitioner

Versus

Chandigarh Administration, Department of Health and Family Welfare,
Chandigarh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Vikas Chaudhary, Advocate for the petitioner(s).
Mr. Suman Jain, Advocate, for the respondent(s).

KRISHNA MURARI, C.J. (Oral)

When the matter was heard on 03.07.2018, we passed the following order:

“Without prejudice to the rights of the respective parties, learned counsel for the respondent(s) is granted two weeks time to seek instructions if out of the total amount of the earnest money deposited (EMD) forfeited by the respondents some reasonable amount could still be re-imbursed to the petitioners to resolve the dispute finally.

Adjourned to 19.07.2018.

A photocopy of this order be placed on the file of connected case.”

Today when the matter has been called out, learned counsel for the petitioner has produced before us an order dated 2nd August, 2018, said to have been passed by Director, Health & Family Welfare, Chandigarh Administration, whereby considering the entire facts and circumstances, the petitioner has been allowed a refund of sum of Rs.5,29,194/- being 50% of the total amount of EMD, which was forfeited.

Learned counsel further submits that terms and conditions and refund of 50% of the EMD is acceptable to him, but since the same is on account of a settlement in view of the above quoted order passed by us, the retention of the remaining 50% of the EMD mentioned as penalty is objectionable inasmuch as the imposition of penalty may have some consequence in future.

Considering the facts, we hereby dispose of these writ petitions in terms of the order dated 2nd August, 2018, produced before us, which is taken on record, with the modification that 50% amount of the EMD, which is being retained by the respondent(s), shall not be treated as a penalty, but on account of settlement between the parties.

With the aforesaid observation, the writ petitions stand disposed of.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

09.01.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO