

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

**CWP No.18206 of 2022(O&M)
Date of Decision: August 22, 2022**

**Haryana Shehri Vikas Pradhikaran
through Administrator**

...Petitioner

Versus

State of Haryana and Anr.

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE HARKESH MANUJA**

**Present: Mr. Deepak Sabherwal Advocate
for the petitioner.**

HARINDER SINGH SIDHU, J.

The Haryana Shehri Vikas Pradhikaran-HSVP has filed this petition assailing the order dated 28.01.2021 (P.6) passed by respondent No.1- The Principal Secretary, Department of Town and Country Planning, Haryana, whereby, the revision petition filed by respondent No.2-Jagdish Chander has been allowed and he has been held entitled to the allotment of residential plot in Sector 32, Urban Estate, Karnal .

The petitioner invited applications for allotment of residential plots in Sector 32, Urban Estate, Karnal under different categories. The closing date for applications was 07.03.2011. In pursuance to the advertisement, respondent No.2, who is a retired ex-serviceman from Indian Army applied for allotment of 4 marla plot. He deposited earnest money of Rs.70,600/-. The draw of lots was held on

30.08.2011. He was declared successful. The petitioner-HSVP issued allotment letters to other allottees except the petitioner. No reason for not allotting the plot was communicated to him. Even his legal notice was not responded to.

He sought information under RTI Act. He was informed that there was cutting in the application form as supplied by the Bank of Baroda. His name was shown in DEPER PAFOR category instead of SEEXS (Ex-serviceman) category. He was asked to submit the relevant documents entitling him to a plot under the DEPER PAFOR category. He failed to do so. Consequently, the plot allotted to him was cancelled by the Estate Officer. HUDA, Karnal vide order dated 05.06.2013.

Respondent No.2 filed a criminal complaint before the learned Judicial Magistrate, Ist Class, Karnal against the officials, who he alleged were responsible for making the cutting in application form. The complaint was dismissed. His appeal was dismissed by the learned Addl. Sessions Judge, Karnal vide judgment dated 23.10.2019. He filed CWP No.945 of 2014, which was dismissed as withdrawn giving him liberty to agitate the matter before the appropriate Forum.

He then filed revision petition under Section 30(2) of the Haryana Shehri Vikas Pradhikaran Act, 1977 (for short "the Act") challenging order dated 05.06.2013. This revision has been allowed by the impugned order. The order of the Estate Officer, HUDA was set aside.

The case of the petitioner-HSVP in the reply dated

04.11.2020 filed before respondent No.1 was that respondent No.2 applied for a plot measuring 04 marla under DEPER PAFOR category through the Bank of Baroda. The application bears cutting in sub-category code. There was also overwriting in said column. After the closing of the scheme the data of the applications was uploaded in the computer system by I.T. Cell. In the uploaded data the name of respondent No.2 was shown under DEPER PAFOR category. Public notices were published in the newspapers i.e Dainik Jagran and The Tribune on 17.08.2011 that in case the applicants have any objection they may be hosted on the website of HSVP. Respondent No.2 did not file any objection. As he failed to submit documents regarding his eligibility in DEPER PAFOR category, the allotment was cancelled.

Respondent No.1 in his order noticed that undeniably the applicant - respondent No.2 retired from Indian Army as Naib Subedar. He had never served in the paramilitary force. There was no occasion for him to have applied under the category of paramilitary force knowing fully well that if he did so his application would be rejected and earnest money would be forfeited. Admittedly, there was a cutting in the sub-category column of his application. PAFOR had been written after making the cutting. It was concluded that this cutting appeared to be a mala-fide act done by someone to harm his interest.

Another reason which weighed with respondent No.1 to believe that respondent No.2 had not applied under PAFOR category was that there was a 10% reservation for the defence category. 8%

plots were reserved for defence personnel/ Ex-Servicemen to which he belonged. Only 2% plots were reserved for para military personnel. Applying under the category of Para military personnel would only reduce his chances to get a plot. Consequently, the order of the Estate Officer, HUDA, Karnal cancelling his allotment was set aside.

Taking note of the fact that more than 10 years had passed since the advertisement was issued in 2011, it was directed that the allotment price be worked out by adding interest at the prevalent bank rate as determined each year till 31.03.2021 to the allotment price in 2011. The amount so calculated was to be payable either in lump-sum within 60 days from the date of allotment or in instalments as were prescribed in the advertisement. Except for the rate the other conditions would be as per the advertisement.

Mr. Sabharwal has argued that the revision petition of respondent No.2 has been wrongly allowed. There was no material to conclude that the cutting has been made by some third person. No objection was submitted by respondent No.2 to the data of the applications which was uploaded despite the public notices issued in the newspapers. Moreover, the criminal complaint as also the appeal filed by respondent No.2 have already been dismissed by the trial Court.

There is no merit in the above submissions. As rightly noted in the impugned order respondent No.2 retired from Indian Army as Naib Subedar. There was no occasion for him to have applied under

the category of 'Paramilitary Force' knowing that it would only lead to rejection of his application and forfeiture of earnest money. As there was a cutting in the sub-category column of his application and PAFOR had been written after making the cutting, respondent No.1 was right in concluding that this cutting appeared to be a mala fide act done by someone to harm the interest of respondent No.2.

Further, the fact that 8% plots were reserved for defence personnel/ Ex-Servicemen to which respondent No.2 belonged, whereas, only 2% plots were reserved for Para-military personnel and applying under the category of Para-military personnel would only reduce his chances to get a plot, was rightly considered by respondent No.1 as an additional reason to conclude that there was no occasion for respondent No.2 to apply in the 'para-military category'.

Accordingly, there is no infirmity in the order warranting interference. This petition is dismissed.

(HARKESH MANUJA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

August 22, 2022

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No