

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

105/18

1)

CWP no.19124 of 2021
Date of Decision:30.05.2022

Raj Pal Singh Gahlaut

..... Petitioner

Versus

Housing Board Haryana and another

..... Respondents

2)

CWP no.19094 of 2020

Raj Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

3)

CWP no.1496 of 2022

Jit Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

4)

CWP no.10260 of 2022

Ravi Kumar and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

5)

CWP no.21154 of 2021

Tarsem Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

6) CWP no.23694 of 2021
Balwan Singh Petitioner
Versus
State of Haryana and another Respondents

7) CWP no.1107 of 2022
Vipin Singh Petitioner
Versus
State of Haryana and another Respondents

8) CWP no.1328 of 2022
Zile Singh Petitioner
Versus
State of Haryana and another Respondents

9) CWP no.1039 of 2022
Rohtash Petitioner
Versus
State of Haryana and another Respondents

10) CWP no.1460 of 2022
Ramesh Kumar Petitioner
Versus
State of Haryana and another Respondents

11) CWP no.26540 of 2021
Prem Singh Dahiya Petitioner
Versus
State of Haryana and another Respondents

12) CWP no.2553 of 2022

Lakshmi Devi Petitioner

Versus
State of Haryana and another Respondents

13) CWP no.3912 of 2022

Manoj Kumar Petitioner

Versus
State of Haryana and another Respondents

14) CWP no.21191 of 2021

Sudarshan Singh Petitioner

Versus
State of Haryana and another Respondents

15) CWP no.6013 of 2022

Avinash Petitioner

Versus
Housing Board Haryana and another Respondents

16) CWP no.4380 of 2022
Karambir Singh Petitioner

Versus
State of Haryana and another Respondents

17) CWP no.8803 of 2022

Satya Parkash and others Petitioners

Versus
State of Haryana and another Respondents

18)

CWP no.11163 of 2022

Mahender Singh @ Mohinder Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

**Present: Mr. Vivek Khatri, Advocate,
for the petitioner (in CWP-19124 of 2021).**

**Mr. Sourabh Goel, Advocate,
for the petitioner (in CWP-19094 of 2020)**

**Mr. Karan Singh, Advocate,
for the petitioner (s) (in CWP nos.21154 and 21191 of 2021 &
CWP nos.2553 and 3912 of 2022)**

**Mr. Jagjeet Beniwal, Advocate, and
Mr. Parveen, Advocate,
for the petitioner (s) (in CWP no.23694 of 2021 & CWP nos.1039,
1107, 1496, 1328 and 1460 of 2022)**

**Mr. J.P. Sharma, Advocate,
for the petitioner (in CWP-6013 of 2022)**

**Mr. Ajay Shekhawat, Advocate,
for the petitioner (in CWP-26540 of 2021)**

**Mr. Chanderhas Yadav, Advocate,
for the petitioner (in CWP-8803 of 2022)**

**Mr. R.S. Malik, Advocate,
for the petitioner (in CWP-4380 of 2022)**

**Mr. Krishan Singh, Advocate,
for the petitioners (in CWP-10260 of 2022)**

**Mr. Sajjan Singh, Advocate,
for the petitioner (in CWP-11163 of 2022)**

**Mr. Baldev Raj Mahajan, Advocate General, Haryana, with
Mr. Aman Bahri, Addl. A.G. Haryana, for the respondent-**

Housing Board Haryana.

AMOL RATTAN SINGH, J. (ORAL)

As recorded in the order dated 23.05.2022 in these 18 petitions, the petitioners are seeking issuance of a writ in the nature of *mandamus* directing the respondents to refund the amounts deposited by them for allotment of flats pursuant to advertisements having been issued by the respondent Housing Board Haryana, in respect of different schemes.

On that date it had been brought to our notice that all the schemes in question have not been scrapped and therefore we had directed that a list of those schemes as have been scrapped be provided to us.

Today a short reply on behalf of respondents no.1 and 2 has been filed in court today by Mr. Bahri, learned Addl. Advocate General, Haryana, in reply to CWP-19124 of 2021, which is ordered to be taken on record.

Mr. Mahajan, learned Advocate General, Haryana, points to Annexure R-1 with the said affidavit, wherein it is shown that only two schemes, i.e. the Defence Scheme Type-A Sampla and the Employees Scheme Jind Road, Rohtak, have been scrapped, as are subject matter of CWP nos.26540 of 2021, 3912 of 2022, 4380 of 2022, 19094 of 2020, 10260 of 2022 and 11163 of 2022.

As regards all other writ petitions (12 in number), the schemes in question in Faridabad, Dadri, Mahindergarh and Rohtak, have not been scrapped.

Coming to the petitions whereby the petitioners are seeking a refund of the amounts deposited by them for the two schemes aforesaid, i.e. the Defence Scheme Type-A Sampla and the Employees Scheme Jind Road, Rohtak, it is the

admitted position that the said schemes having been floated in the year 2013/2014, they were eventually scrapped in the year 2017.

The learned Advocate General has also drawn our attention to Regulation 5(2) of the Housing Board Haryana (Allotment, Management and Sale of Tenements) Regulations, 1972, which reads as follows:-

“5. Application for tenements-

(1) XXXXX XXXXX XXXXX

(2) No application shall be accepted by the Board unless it is received on or before the date specified in the notice or the date extended from time to time and the applicant pays the amount with the application at the time of registration as provided in the notice published under regulation 4. The applicant shall not be entitled to any interest on the amount paid with the application at the time of registration where the Board allots him a house within a period of two years from the closing date of registration or where the applicant chooses to withdraw his application within a period of two years which will be governed by the provisions of regulations 12. In other cases, where the Board fails to allot houses within a period of two years from the closing date of registration, interest on amount paid with the application at the time of registration shall be payable for the period after the expiry of two years from the closing date of registration to the date of allotment or date of refund, whichever is earlier, at the rate applicable in the case of saving bank accounts of the nationalized banks.”

Thus, he contends that there being a statutory provision governing the issue of refund of the money paid by any applicant in any scheme, where such applicant has not been allotted a house/flat within a period of two years from the closing date of registration, this court would not award interest over and above the statutory provision, especially with there being no challenge to the said provision

itself.

Learned counsel for the petitioners however submits that as observed by this court on the last date of hearing, since the respondents are charging compound interest @ 10% per annum in case of default of payment of installments, and it is not the fault of the applicants at all that the schemes in question were scrapped, and the money paid by the applicants has been lying with the respondents for the past 8 to 9 years now, the same rate of interest should be applied.

Whereas undoubtedly we had observed to the aforesaid effect on the last date of hearing, but at that stage the provision of the statutory regulation was not brought to our notice.

Learned counsel for the petitioners in these petitions then submit that obviously much more than two years having gone by since the money was deposited by them after the closing date for the registration of applications for the flats, they would be satisfied if a direction is given to the respondents to refund the money deposited by them at bank rates in terms of the aforesaid regulation.

That being so, and with there being no challenge to the regulation itself in these petitions, they are disposed of with a direction to the respondents to refund, in the case of each petitioner, the entire amount of money deposited by her/him in the year 2013/2014 (as the case may be), alongwith the mean savings bank interest of the State Bank of India, running from the date of the closing of the registration in respect of each scheme, by 30.06.2022 in the case of the Defence Scheme Type-A Sampla, and till 31.10.2022 in the case of the Employees Scheme, Jind Road, Rohtak.

The aforesaid dates have been specifically given by us in terms of what has been contended by the learned Advocate General, Haryana, before us today.

Naturally, needless to say, any delay in implementation would entitle the petitioners to invoke the provisions of the Contempt of Courts Act, 1971, other than, of course, further penal interest to be levied @ 10% per annum with compounding, for delayed payment beyond the aforesaid two dates.

Even as regards the schemes as have not been scrapped (as are subject matter of the remaining 12 petitions), counsel for the petitioners have today made a categorical statement that the petitioners do not wish to avail of any further time to be allotted flats and are interested in only refund of money.

Consequently, it is directed in their cases too, that the money deposited by each petitioner in those schemes, also would be refunded by 31.10.2022 alongwith interest as specified hereinabove.

(AMOL RATTAN SINGH)
JUDGE

May 30, 2022
dinesh

(LALIT BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes