

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 5472 of 2024

Date of decision: 07.03.2024

Vivek Bhadana and others

.... Petitioners

Vs.

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Aalok Jagga, Advocate and
Mr. Harkirat S. Jaagdev, Advocate
for the petitioner.
Mr. Ankur Mittal, Addl. A.G. Haryana and
Ms. Kushaldeep Kaur, Advocate.

ARUN PALLI, J (Oral)

The petitioners have assailed the letter dated 19.02.2024 (P-13), issued by Eros City Developers Private Limited (Respondent No.3), vide which, petitioner No.12 has been informed that plots under “No Profit, No Loss” (NPNL) category would be allotted through a draw, scheduled for 07.03.2024.

Learned counsel for the petitioners submits that the impugned letter indicates that the proposed draw was to be officiated by a committee constituted by respondent No.3 itself. And, the venue for the draw is the registered office of the company, i.e. S-2 Level, American Plaza, International Trade Tower, Nehru Place, New Delhi. It is submitted that a bilateral agreement (P-1), in terms of Rule 11 of the Haryana Development and Regulation of Urban Areas, Rules, 1976, was entered into between M/s B.P. Jain & Sons (P) Ltd. and Governor of Haryana through the Director, Town & Country Planning, Haryana (DTCP). However, the project in question was subsequently transferred to respondent No.3. In reference to clause 2 of the agreement, learned counsel for the petitioners submits that project proponent was required to reserve 25% of the residential plots for NPNL category, the price for which was to be determined by DTCP. And, the 75% of the site/plots in NPNL category were to be allotted to the registered applicants by the owner. Whereas, rest 25% to Non-Residential

Indians against Foreign exchange and to the land owners whose land was purchased for setting up the colony. It is urged that scheme for allotment stood closed on 24.10.2019. However, the allotment process was not initiated, owing to non-fixation of rates by DTCP. And also for the status of plots under “No Construction Zone”, was yet to be decided. It is submitted that of the 181 plots that were reserved in the NPNL category, 55 were freezed owing to a pending matter before the Supreme Court. And, of the remaining 126 plots, 25 were earmarked in the NRI quota, and the balance 6 for the management quota. Meaning thereby, only 95 plots, as against 172 applicants. Thus, holding a draw for the purpose of allotment was/is inevitable. It is submitted that the limited grievance that the petitioners have is that despite their repeated requests, vide communications dated 24.01.2020 (P-8) and 06.07.2020 (P-9) to respondent No.3 as also to respondent No.2, to provide a list of the applicants who had applied in the NPNL category, no response has been received to date. Further, no permission was sought by respondent No.3 from the Director, Town and Planning, Haryana, before constituting the committee to conduct the draw something which was/is in apparent contravention of the bilateral agreement (*ibid*). He asserts that draw of lots/allotment is always held at the site, for which the allotment is to be made or at a public place and not in a private office of the company. Further, most of the petitioners have not even received any intimation as regards the proposed draw. And thus, they have serious apprehensions that list of applicants in their category has been tampered with and/or the applications were received post the cut off date. Not just that, repeated notices dated 22.02.2024 (P-15) and 25.02.2024 (P-16) to the authorities to ascertain the methodology that was being followed to ensure fair and transparent allotment/transparency in the process, have also failed to invoke any response. And, their request to furnish the list of applicants in the NPNL category along with their addresses, has not been addressed either. Therefore, he submits that petitioners, in the given circumstances, have legitimate apprehensions as regards the fairness and veracity of the allotment process that is purportedly being followed.

Served with the advance copy of the petition, Mr. Ankur Mittal,

Additional Advocate General, Haryana, is present in Court. At the outset, he

has placed before us a communication dated 06.03.2024, issued by Directorate of Town and Country Planning, Haryana, to respondent No.3, which is taken on record as “Mark-X”. And, vide which, the private respondent has been directed not to proceed with the allotment scheduled for 07.03.2024:

“To

**Eros City Developers Pvt. Ltd.,
Regd. Office S-2, Level-1,
American Plaza, International Trade Tower,
Nehru Place, New Delhi – 110019
Memo No.LC-227-JE(MK)-2024/8197 dated
06.03.24.**

Subject: Draw of plots under NPNL falling in the Residential Plotted Colony over an area measuring 126.502 acres in the revenue estate of village Lakkarpur, Sector 39, Faridabad being developed by Eros City Developers Pvt. Ltd., (Licence no.147-148 of 1995 & 5-7 of 2000).

Please refer to your representation dated 27.02.2024 regarding subject cited above wherein objections/suggestions from this Department for allotment of NPNL Plots have been sought. In this regard, it is observed that the NPNL plots falls under the NCZ yet to be decided category. Hence, you are directed to not proceed with the allotment schedule on 07.03.2024 till the time the matter regarding NCZ is decided by the competent authority.

**(Savita Jindal)
District Town Planner (HQ)
For Director, Town and Country Planning,
Haryana, Chandigarh”**

Therefore, it is submitted that insofar as the prayer of the petitioners to quash the impugned letter dated 19.02.2024 (*ibid*), vide which the draw was being held on 07.03.2024, is rendered infructuous. However, as regards the other concerns/grievances set out in the petition, learned Additional Advocate General, Haryana submits, for the competent authority is already in seisin of the repeated communications/representations/notices

that have been submitted by the petitioners, it would be expedient, if this petition is disposed of, at this stage, to enable the competent authority, to take cognizance thereof. And pass necessary orders in accordance with law. Further, before any such orders are passed, all the stakeholders including the petitioners would also be heard.

That being so, learned counsel for the petitioners submits that nothing substantive survives in the petition and the same be disposed of in terms of the statement made by the learned Additional Advocate General, Haryana. However, he submits that the petitioners be also granted opportunity to substantiate/supplement their claim by submitting any fresh material/documents, if so advised. Further, he submits that as the claim of the petitioners is pending consideration for long, it would be appropriate if, the respondent authorities are directed to ensure the timely resolution of the dispute and pass appropriate orders.

To this, learned Additional Advocate General, Punjab, submits that in the event, any such material is submitted within a week from today, the same shall also be taken into account before passing any formal orders. He further submits that the necessary orders shall be passed within eight weeks from today

In the wake of the position sketched out above, the petition is disposed of in terms of the statement made by learned counsel for the parties.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party, for, as indicated earlier, the competent authority shall examine the grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

07.03.2024
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