



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.20710 of 2024
Date of decision:30.08.2024

Eros City Developers Pvt. Ltd.

....Petitioner

Versus

Director General, Town & Country Planning Department, Haryana and
others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Aashish Chopra, Senior Advocate with
Mr. Gagandeep Singh, Advocate and
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Karan Jindal, Asstt. A.G. Haryana and
Ms. Kushaldeep Kaur, Advocate.

Mr. Aalok Jagga, Advocate
for the private respondent.

VIKRAM AGGARWAL, J.

1. The petitioner assails the memo dated 16.08.2024 (Annexure P-24) vide which, while referring to order dated 07.03.2024 passed by this Court in CWP No.5472 of 2024 titled as Vivek Bhadana and others Versus State of Haryana and others, the petitioner and other affected parties have been called for an opportunity of hearing on 04.09.2024 by respondent No.1 regarding the draw of No Profit No Loss (NPNL) plots despite having knowledge of the draw having been fixed by the petitioner for 30.08.2024.



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The impugned order has also directed the petitioner not to conduct the said draw till the time the matter is not heard and finalized by respondent No.1.

2. A little background. CWP No.5472 of 2024 was preferred by Vivek Bhadana and some other persons assailing the letter dated 19.02.2024 issued by the petitioner herein vide which the draw of plots under the NPNL category was scheduled for 07.03.2024. The said writ petition was disposed off on 07.03.2024:

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 (P16) 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.”

3. When the present writ petition came up for hearing for the first time on 27.08.2024, Mr. Ankur Mittal, Additional Advocate General, Haryana, prayed for some time to seek instructions and/or submit an affidavit as regards the hearing scheduled to be held on 04.09.2024. Pursuant to that, affidavit dated 29.08.2024 of the Director Town & Country Planning Haryana was filed in the Court on 29.08.2024. In the said affidavit while regretting the delay that has occurred in passing an order in terms of our order dated 07.03.2024 and tendering an apology on his request, it has been averred that a Committee has been constituted to scrutinize the applications submitted by the applicants for allotment of NPNL plots:

“That the delay occurred in passing the order is highly regretted it was unintentional, the answering respondent tender unconditional apology for the same. However, in order to ensure timely compliance the answering respondent vide order dated 28.08.2024 has constituted a committee headed by



the Senior Town Planner, Faridabad with following representatives to scrutinize the applications submitted by the applicants before the petitioners for allotment of NPNL plots, considering all aspects raised by the petitioners in the CWP No.5472 of 2024 including the date of receipts of applications vis-à-vis cutoff date etc:-

- i) Senior Town Planer, Faridabad-Chairman.*
- ii) District Town Planner, Faridabad-Member.*
- iii) Representative of developer/petitioner.*
- iv) Representative of petitioners of CWP No.5472 of 2024.*

Further, the petitioner (developer) and the petitioner of CWP No. 5472 of 2024 has been directed to provide the following information in the office of Senior Town Planner, Faridabad on or before 03.09.2024:-

- i) Name of representative who will be part of scrutiny by the aforesaid committee.*
- ii) All the relevant original records pertaining to inviting applications and applications received regarding NPNL plots.*

8. That the stakeholders including petitioner will be directed to confirm on the next date of hearing i.e. 04.09.2024 that all relevant record related to applications for NPNL plots has been submitted in the office of Senior Town Planner, Faridabad. However, in case any of the stakeholders required to submit some additional documents then last opportunity will be provided to submit the same before 3:00 PM on 06.09.2024 in the office of Senior Town Planner, Faridabad.

Thereafter, the constituted committee shall scrutinize the applications and submit the report regarding the eligible applications to the answering respondent by 16.09.2024. After receipt of report of the committee, the answering respondent



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shall grant opportunity of hearing to all stakeholders including Senior Town Planner, Faridabad on 19.09.2024 and will pass the speaking order by 20.09.2024.”

4. We have heard learned counsel for the parties.
5. Learned Senior counsel representing the petitioner submits that the petitioner is agreeable to the course suggested by respondent No.1 as also the time-line given in the affidavit. He, however, submits that instead of a representative of the petitioner and the private respondent being made a part of the Committee, they can be associated with the Committee during the scrutiny of applications.
6. Learned Additional Advocate General, Haryana, on instructions, submits that respondent No.1 would have no objection in not making the representative of the petitioner and the private respondent as Members of the Committee and instead simply associating them in the process of scrutiny of applications etc.
7. Learned counsel for the parties are therefore, *ad idem* that with the aforesaid modification in the structure of the Committee, let the necessary exercise be carried out by respondent No.1 in terms of the schedule given in the affidavit. It has also been undertaken that parties shall abide by the said scheduled and shall duly co-operate during the proceedings.
8. The writ petition is accordingly disposed of in the above terms.

We are sanguine that the authorities shall arrive at a decision in accordance with law within the time period laid down in the affidavit and



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extracted in the preceding paragraphs. However, nothing observed herein above shall be construed to be an opinion on the merits of the case.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

August 30, 2024
Rekha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No