

(2013) 09 CAL CK 0022

In the Calcutta High Court

Case No : F.M.A. No. 1067 of 2013 and CAN 6718 of 2012

Baiju Kumar Agarwal and Others

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 02-09-2013

Acts Referred:

Citation : (2014) 1 CHN 180

Hon'ble Judges : Arun Mishra, C.J.; Joymalya Bagchi, J

Bench : Division Bench

Advocate : Anajn Bhattacharje, for the Appellant; Subhrangsu Panda, for the Respondent

Final Decision : Dismissed

Judgement

Joymalya Bagchi, J.—The appeal is directed against the judgment and order dated 26.04.2012 whereby the learned Single Judge has dismissed a challenge thrown by the appellants to allot residential building on "lottery basis" instead of "first come first served basis". The appellants' case is that on 18th June, 2006 a notice was issued inviting applications for allotment of residential premises on "first come first served basis". Such applications was directed to be accompanied with an initial deposit of Rs. 5,000/- (Rupees five thousand) by way of earnest money and were to be made within 15 days of the advertisement.

2. On 20th June, 2003 a list was published indicating that allotment letters would be issued to the successful applicants as indicated therein. The appellants were one of such successful applicant. However, subsequently by notice dated 3rd July, 2006 the respondent authorities cancelled the earlier allotments and directed that the allotment would be made on lottery basis. Such change of stance was questioned before the learned Single Judge.

3. Learned Single Judge by the impugned order dismissed the writ application on the ground that no right had accrued in favour of the appellants/writ petitioners and that it was open to the respondent authorities to decide the manner in which

allotment of such government largesse is to be made. Learned Single Judge further observed that allotment through lottery basis could not be said to be unjust or arbitrary in the facts of the case.

4. Learned counsel appearing for the appellants submitted that once allotment had been made, the respondent authorities could not have altered the procedure in a whimsical manner.

5. We are of the view that it is the sole prerogative of the respondent authorities to decide the manner in which the government largesse, that is, the residential premises in the instant case, are to be allotted. It goes without saying that the procedure of lottery is a more representative and effective manner of distribution of largesse than first come first served basis. We cannot sit in judgment over the discretion of the respondent authorities.

6. We are in complete agreement with the learned Single Judge that no legal right had accrued in the appellants/writ petitioners by merely declaring that they are one of the empanelled successful applicant for the allotment.

7. Furthermore, the earnest money deposited by them has also been directed to be refunded with interest. Hence, we do not find any merit in the instant appeal. The appeal and connected applications are accordingly dismissed.