

(2001) 05 P&H CK 0012
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6667 of 2000

Notan Dass Manchanda

APPELLANT

Vs

Chandigarh Housing Board

RESPONDENT

Date of Decision : 18-05-2001

Acts Referred:

Chandigarh Housing Board (Allotment, Management and Sale of Tenements)
Regulations, 1979 — Regulation 6

Citation : AIR 2002 P&H 37 : (2001) 4 RCR(Civil) 344

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mahesh Grover, for the Appellant; Sanjeev Sharma, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—The petitioner is a retired Government servant, lie applied to the Chandigarh Housing Board for the allotment of a

flat in Sector 38. His request was accepted. The allotment was actually conveyed vide letter dated-October 15, 1996. A copy of this letter has

been produced as Annexure RI /3 with the written statement filed on behalf of the respondent Board. Later on, this allotment was cancelled vide

order dated April 27, 2000 on the ground that a residential plot had been allotted to him ""by HUDA by way of a friendly transfer at the original

reserved/fixed price, i.e. at concessional rate....."". A copy of this letter has been produced as Annexure P-28 with the writ petition. Aggrieved by

the order, the petitioner has approached this Court through the present writ petition. He alleges that the cancellation of allotment of the flat is

arbitrary and illegal. He prays that the order be quashed.

2. A written statement has been filed on behalf of the respondents. It is maintained that the order is legal and in conformity with the rules.

3. Counsel for the parties have been heard.

4. The short question that arises for consideration is -Was the petitioner ineligible for the allotment of the flat on the ground that he had bought plot

No. 1220, Sector-4, Gurgaon, prior to submission of the application for allotment of the flat?

5. Admittedly the condition of eligibility as prescribed by the Housing Board reads as under :-

A person will be eligible for allotment of a dwelling unit in case he/she or his wife/her husband or any of his/her dependent relations including

unmarried children does not own on free-hold or leasehold or on hire-purchase basis a residential plot/house in the Union Territory, of Chandigarh

or in either of the Urban Estates of Mohali and Panchkula. Similarly, in case he/she was acquired a house/residential site anywhere in India through

Govt./Semi Govt./Municipal Committee/Corporation/Improvement Trust at concessional rates, i.e. at reserved/fixed price, in his/her name or in the

name of dependent members of his/her family, he/she will not be eligible for allotment of a dwelling unit.

A perusal of the above provision shows that to be eligible the applicant or the spouse and dependent relations should not own a residential plot or

house in the Union Territory of Chandigarh or the Urban Estates of Mohali and Panchkula. Secondly, he should not have acquired a

house/residential site ""anywhere in India through Government/Semi-Government/Municipal Committee, Corporation/Improvement Trust at

concessional rates...."".

6. It is the admitted position that the petitioner and his family members do not own any house or plot in the Union Territory of Chandigarh or the

Urban Estates of Mohali and Panchkula. However, the respondents contend that the petitioner was ineligible for the allotment of the flat as he had

purchased a plot in a friendly transfer from a person who had been allotted the site by HUDA at concessional rates. On this basis, it is contended

that the petitioner was ineligible.

7. On a perusal of the conditions of eligibility as noticed above, we find that a person is ineligible only when he has acquired the house or site at a

concessional rate ""through Government/Semi-Government/Municipal Committee"". It is the admitted position that the petitioner was never allotted any site or house by the Government/Semi-Government or Municipal Committee etc. in Gurgaon. The mere fact that somebody who had been allotted a plot by the Government at a concessional rate had transferred it to the petitioner at his cost price (as alleged by the respondents but disputed by the petitioner) would not make him ineligible. In any case, the Board has not laid down that a person should not have acquired the property at a concessional rate from any person. It is only when the property is acquired at a concessional rate through Government or a Governmental agency that the person becomes ineligible. Such is not the position in the present case. Still further, supposing somebody gets a plot by way of a gift. He pays no price. Under the regulation he would not be ineligible. Thus, the petitioner does not fall within the mischief of Regulation 6 as laid down by the Board itself.

8. Mr. Grover was at pains to point out that in fact the petitioner had paid a much higher price. He had bought the plot for Rs. 50,000/- and not at the price at which it had been allotted to the vendor by the original allottee. Be that as it may. We are not concerned with the actual price paid by the petitioner. For the present, the only issue is - Was the petitioner ineligible ? We think he does not fall within the disqualification prescribed by the Regulation. Resultantly, the order passed by the Board cannot be sustained.

9. Another fact which deserves mention is that the petitioner had disclosed the factum regarding his having a plot in Gurgaon. If the Board had any reservation on that account, it should have checked up the facts before making the allotment. Not afterwards.

No other point has been raised.

10. In view of the above, the order dated April 27, 2000, a copy of which is at Annexure P-28 with the writ petition, is set aside. The flat as originally allotted to the petitioner shall stand restored. Civil Writ Petition is disposed of. In the circumstances, we leave the parties to bear their own costs.

11. Petition dismissed.