

**(1988) 11 DEL CK 0003**

**In the Delhi High Court**

**Case No : Civil Writ Appeal No. 1516 of 1987**

Surinder Kumar and Others

APPELLANT

Vs

Delhi Development Authority and Others

RESPONDENT

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**Date of Decision :** 01-11-1988

**Acts Referred:**

**Citation :** (1989) 16 DRJ 90 : (1989) RLR 322

**Hon'ble Judges :** N.N. Goswamy, J

**Bench :** Single Bench

**Advocate :** Raj Birbal, R.K. Saini and M.L. Bhargav, for the Appellant;

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## **Judgement**

N.N. Goswamy, J.

(1) This petition by the employees of Food Corporation of India is directed against the Decision of Delhi Development Authority refusing to allot 47 flat? in Trilok Puri residential Scheme, which decision was finally conveyed to the Food Corporation of India by letter dated 31st March, 1987.

(2) The facts of the case are not in dispute. The Delhi Development Authority constructed about 1392 middle income group and 697 low income group dwelling units in Trilok Puri across Yamuna. Vide. letter dated 4th July, 1979, Food Corporation of India requested for allotment of some flats and in response to the said letter, the respondent authority vide its letter dated 30th August, 1979 offered allotment of flats to such employees of Food Corporation of India who may fulfill the terms and conditions of allotment. After some correspondence, by letters dated 28th March, 1981 and 24th April, 1981, 47 specific flats 33 Mig and 14 Lig, were allotted to the Food Corporation of India for allotment to its eligible employees. The Food Corporation of India had made payment of the entire amount amounting to Rs. 32,00,000.00 for which the receipt dated 6th June, 1981 was issued. However, before the actual allotment could be finalised. Food Corporation of India made a request addressed to the Lt. Governor, Delhi for allotting the flats to Food Corporation of India itself so that the Corporation may

allot the same on rental basis to the officers/employees posted in Delhi from time to time on individual basis. This correspondence went on in 1983 and 1984 also. However, the respondent authority stuck to its stand that the flats could only be allotted to its employees. The Food Corporation of India sought time from the respondent Authority to furnish the list of its employees who should be allotted the flats. Before however, furnishing the list, the Food Corporation of India in January, 1986 again made a request turn allotment of the flats to the Corporation. The respondent authority replied the request by saying that the allotment could be made to the Corporation on payment of the price at the market rate prevailing at that time. The market rate was calculated and the Corporation was asked to deposit a further amount of Rs. 66,90,465.00 as balance cost of the flats which included cost of land at market rate. The Food Corporation of India immediately wrote back to the authority that they were not interested in paying the additional amount and as such the flats may be allotted to its employees for which the list will be furnished shortly. Finally, by letter dated 23rd October, 1986, the Food Corporation of India submitted application forms, income certificates and affidavits of those employees who were allotted the flats in draw of lots held by the Corporation. Thus, full compliance was made in terms. of the requirement of the respondent Authority.

(3) After the aforesaid list was submitted by the Corporation it appears the respondent Authority changed its stand for reasons best known to the Authority and sent a communication to the Corporation that it was not possible to make the allotment in favor of the employees and the Corporation if so required could get the flats on payment of additional premium as indicated by them vide their letter dated 29th August, 1986. It is against this communication dated 31st March, 1987 that the present writ petition has been filed by some of the allottees of the flats.

(4) The Food Corporation of India in their counter affidavit has fully supported the case of the petitioners. The respondent Authority, however, has filed a counter affidavit wherein they have disputed the right of the petitioners to file the petition. This submission of the respondent Authority is not tenable for the simple reason that it is the petitioners who are the beneficiaries and who have already acted to their prejudice by admittedly cancelling the registration for allotment of flats in their individual capacity with the respondent Authority as also by making huge payment to the Food Corporation of India in response to the allotment in their favor. It is an admitted fact that at least some of the petitioners had registered themselves for allotment of flats in their individual capacity with the respondent Authority Having been found successful in the draw of lots, they have cancelled that registration since under the rules of Delhi Development Authority, they were no longer eligible to have a second flat. It is also an admitted fact that after the draw of lots, the petitioners were required by Food Corporation of India to pay certain amounts and a part of the salary was also deducted towards payment of the price of the flats and that deduction is continuing till date. Thus huge amounts have been paid by the petitioner towards

the price of the flats. As far as Delhi Development Authority is concerned, it has realised the full value of the flats as far back as in 1981. In categorical terms, the stand of Delhi Development Authority has been that the flats could be allotted to the individual employees and not to the Corporation. For reasons best known to Authority, this stand was changed in 1986 and an additional amount of Rs. 66,90,465.00 was demanded. Such an action cannot be considered to be a bona fide action on the part of the Authority which is a "State" and not a commercial organisation.

(5) The question whether the petitioners could be allotted the flats is also not in dispute since admittedly the respondent Authority has allotted flats to the employees of other Corporations particularly to Indian Oil Corporation and to Bharat Heavy Electricals Limited and possession of the flats has already been given to the employees of those Corporation. The delay caused by the Corporation in asking for allotment in favor of the Corporation has not in any way prejudiced the Authority in as much as the Authority .had realised the full amount of Rs. 32,00,000.00 as far back as in June, 1981 and the amount has remained with them. Ordinarily I would have directed the Authority to pay interest to the petitioners on the said amount but considering the fact that the Corporation had requested for allotment in favor of the Corporation at least till 1984 and again in 1986. I would refrain from directing the Authority to pay any interest. However, the Authority is bound to allot the flats in terms of the letter sent by the Corporation after the draw of lots.

(6) For the reasons recorded above, the rule is made absolute and the respondent Authority is directed to complete the allotments as early as possible and not later than 31st December, 1988.

(7) In the circumstances of the case, the parties are left to bear their own cost