

The Chandigarh Housing Board (Allotment, Management and Sale of Tenements) Regulations, 1979

Notification dated 29th December, 1979

See Chandigarh Gazette (Extra) Dated 5-1-1980 Page 7-14

No. HB (S) 79/9046--In exercise of the powers conferred by section 74 of the Haryana Housing Board Act, 1971, as extended to the Union Territory of Chandigarh, and all other powers enabling it in this behalf, the Chandigarh Housing Board with the previous sanction of the Administrator, hereby makes the following regulations, namely :—

CHAPTER I General

1. *Short title, application and commencement.* - (1) These regulations may be called the "Chandigarh Housing Board (Allotment, Management and Sale of Tenements) Regulations, 1979."

(2) These regulations shall apply to those schemes in which built-up properties are to be disposed of by way of sale or hire-purchase or lease or in such manner as prescribed by the Board.

(3) These Regulations shall come into force immediately.

2. *Definitions.* - In these regulations, unless there is anything inconsistent with the context or meaning—

(1) "Act" means the Haryana Housing Board Act, 1971, as extended to the Union Territory of Chandigarh ;

(2) "Allotment Letter" means a letter in such form as may be prescribed by the Board from time to time making allotment of a particular property to an applicant ;

(3) "Allottee" means a person to whom a property has been allotted by way of sale or hire-purchase or lease or in such manner as prescribed by the Board ;

¹[This expression for the purposes of regulations 15, 27, 30 and chapter IV shall include authorised occupants of the dwelling unit.]

(4) "Applicant" means a person who has sent an application putting his/her signature or affixing his/her thumb-impression thereon ;

(5) "Application" means an application made in such form as may be prescribed by the Board from time to time ;

(6) "Application Register" means a register in which applications received in response to a public notice are entered ;

(7) "Board" means the Chandigarh Housing Board constituted under section 3 of the Act ;

(8) "Common portions" means those portions of the plot or premises which are in common use and includes the land, gateway, enclosure, compound walls, passages, corridors, stair-cases, fitting, fixture, lift, if any, installation whether for water supply or drainage or lighting or any

other purpose and all such facilities which are used or intended to be used in common ;

- (9) "Common services" in relation to common portions means the services which are rendered for maintenance, running, keeping in good condition and controlling those common portions, use whereof shall be regulated by the Registered Agency concerned ;
 - (10) "Consideration" in relation to a dwelling unit/flat or other built-up property or any other property shall include the price fixed by the Board for allotment of such property by way of sale, hire- purchase or lease or in any other manner premium, hire-purchase, lease money and ground rent ;
 - (11) "Conveyance/Lease Deed" means an agreement in the prescribed form between the Board and the allottee or hirer or the registered agency, as the case may be, by which the title in the property is transferred to the allottee or hirer or the Registered Agency on the terms and conditions specified in the agreement entered into between the parties ;
 - (12) "Deposit" means the initial amount payable by an applicant along with his application for securing a property which shall be non- interest bearing unless otherwise declared by the Board to be interest bearing ;
 - (13) "Documental Charges" in relation to a document or documents made in pursuance of these regulations means all charges such as stamp charges, writing charges, registration charges, printing charges and plan charges ;
 - (14) "Dwelling Unit" means a building or a part thereof which is used or is intended to be used by a family for habitation ;
 - (15) "Eligible Person" means a person who is entitled to the purchase of a property in accordance with the provisions of scheme and these regulations ;
 - (16) "Flat" means a portion of building with its undivided interest in the common portions and common service which can be delineated with definite outline on plan and which can be definitely marked on site, and which is a heritable and transferable dwelling unit ;
 - (17) "Ground Rent" in relation to a plot of land means the annual payment at the prescribed rate to be made by the lessee of the plot to the Board as lessor or the Government ;
 - (18) "Hire-Purchase Period" means such period as may be specified for continuance of a tenancy and on the expiry of which hirer becomes owner and attains lease-hold rights for 99 years after payment of a conveyance/lease deed ;
 - (19) "Hirer" means a person who has signed the Hire-Purchase Tenancy Agreement;
- [This expression for the purpose of regulations 15, 27, 30 and chapter IV shall include authorised occupants of the dwelling units.]
- (20) "Hire-Purchase" or "Hire-Purchase System" means a system in which a hirer after having paid 25% of the price or such percentage of the price of the property as may be prescribed by the Board in the scheme, executes a hire-purchase tenancy agreement ;

- (21) "Hire-Purchase Tenancy Agreement" means an agreement between the Board and the hirer in the form prescribed in these regulations for disposal of property under the hirer in the Hire-purchase System ;
- (22) "Penalty" means an additional amount as laid down in the relevant agreement payable by the allottee or hirer as a consequence of his default in the payment of prescribed dues or for non-compliance of terms and conditions of allotment ;
- (23) "Property" means the land, the building, all appurtenances and structures thereon, all owned in free-hold on lease or as occupied under competent orders by the Board and all articles of personal property of the Board intended for use in connection therewith ;
- (24) "Property Circumstances" includes the nature and condition of the building and premises, the type and the nature of construction, specification adopted therefor, material used and the workmanship, stability or durability of the structures, the type of accommodation, pattern of installation, fittings, fixtures and other amenities and all such other things that constitute the property as they exist in the building or premises concerned ;
- (25) "Registered Agency" means a body registered under these regulations for carrying out the provisions of these regulations and agreement made thereunder relating to common portion and common services ;
- (26) "Scheme" means a scheme prepared by the Board for the construction of a group of houses for dwelling purposes ;
- (27) "Service Charges" means the amount which the allottee or hirer has to pay as a monthly charge for the maintenance of common portion and common services ;
- (28) "Tenancy Stipulations in relation to a hirer" means the stipulations for the tenancy prescribed under these regulations.

3. *Execution of agreements.* - All agreements made under these regulations shall be executed on behalf of the Board by the Chairman or such other officer as may be authorised by him in this behalf.

CHAPTER II

Terms and Conditions for Disposal of Property

4. *Disposal of Property.* - (1) The disposal of a property shall be effected by either hire-purchase or sale on lease-hold basis for 99 years or in such manner as prescribed by the Board.

(2) The disposal of property shall be subject to such terms and conditions as may be decided by the Board from time to time or as may be imposed on the Board by the Chandigarh Administration, from time to time.

5. *Fixation of Price.* - Notwithstanding anything to the contrary, the Board shall determine and if considered essential, may revise consideration from time to time and wherever the consideration is revised, it shall also determine the manner in which the revised consideration is payable and such determination, both original or revised, shall be final ; and the allottee or hirer shall be precluded from making complaint or raising objection or setting up any claim in this behalf at any stage.

COMMENTARY

Allotment - The petitioner was allotted a flat way back in 1987 when she was registered at Sr. No. 536 in the category of IIG (L) 1 houses but she was

refused possession thereof on one pretext or another - The Board is debarred by its own conduct from raising baseless objection at such a belated stage when prices have gone sky rocketing - She cannot possibly apply for a plot of the same area for the prices prevalent in the year 1987 - Respondent directed to hand over the possession of the flat to the petitioner - *Inderbir Kaur v. The Chairman Chandigarh Housing Board*, 1993 H.R.R. 578

—The petitioner applied for the allotment of a Flat under a Scheme “for one and all” - She deposited a sum of Rs. 4,000/- and later on Rs. 50,000/- for allotment of House in Sector 45-A - She wrongly stated in her application that no member of her family was owning any residential house or plot in Chandigarh/Panchkula or Mohali while her husband had already been allotted a house - She realizing her mistake, wrote to the Board to cancel her husband’s house to enable her to have the second house in Sector 45-A allotted to her but no reply was given by the Board - After having been directed by the Hon’ble High Court to hear her in this respect, the Board cancelled her allotment of Sector 45-A and ordered Rs. 54,000/- to be forfeited - Held, the order of the Board cannot be sustained - She was not given any opportunity to explain her position by the authorities - However forfeiture of Rs. 4,000/- would meet the ends of justice - The respondent is directed to refund Rs. 50,000/- to the petitioner with interest at the rate of 12% per annum - *Smt. Ram Dulari v. Union Territory, Chandigarh*, 1994 HRR 67

Enhancement of price - Where the allotment of plot was accepted per the terms given in the letter of allotment including tentative price subject to increase in case of enhancement in cost of land. The contract would be binding upon both the parties. A finding that action of Authorities in enhancing the price is arbitrary and unreasonable, cannot be interfered with by the High Court in exercise of its jurisdiction under Art. 226 of the Constitution. The plea that plots sold on ‘no profit no loss basis’ should be taken care of by the Authorities, not tenable in view of Charanjit Bajaj’s case decided on 10th April, 1991 - *Air Marshal Shiv Dev Singh (Retd) v. HUDA*, 1991 PLJ 487.

—Recovery of enhanced price was ordered to be recovered from some of the allottees of flats - Other similarly situated were not touched though falling under the same Scheme - Increase to be split upon all the allottees - The plea of Housing Board that some of the flats were not free from encroachment, was not acceptable - *Sukhpal Singh Kang v. Chandigarh Housing Board*, 1995 HRR 253.

—Where in the letter of allotment it was made clear that the price of the plot is tentative one and any enhancement in the cost of land under the Land Acquisition Act shall also be payable proportionately by the plot holders. The petitioners accepted the terms and conditions of allotment, it was held that the Haryana Development Authority was within its competence to enhance the price. The plea that the burden of enhanced price of the commercial site which was to be borne by the HUDA and it has wrongly been passed on to the allottees, not accepted. It was further observed that those who contract with open eyes must accept the burdens of the contract along with its benefits as held in *Har Shanker’s case* (1975) 3 SCR 254. Relying upon the judgments delivered in *Chander Mani’s case* 1990 PLJ 501 and *Charanjit Bajaj’s case* 1986 PLJ 601 it was held that allottee is not only liable to pay the additional enhanced price of land but also the costs of acquisition which includes solatium, interest and legal expenditure incurred by the Estate Officer in defending acquisition and award of Land Acquisition Collector at all stages mentioned in the Land Acquisition Act - *Ravinder Narula & ors v. HUDA*, 1991 PLJ 509.

¹[6. *Eligibility of Allotment.* - (1) A Dwelling Unit or a flat in the Housing Estates of the Board shall be allotted only to such person who or his wife/her husband or any of his/her minor children does not own on free-hold or on hire-purchase basis or on the basis of an Agreement to Sell, GPA, Will etc. a residential plot or house, in full or in part, in the Union Territory of Chandigarh or in any of the Urban Estates of Mohali or Panchkula. If, however, individual share of a person in the jointly owned plot or land under the residential houses is less than 100 Sq. Yds., he/she shall be eligible for allotment of a D.U. by the Board. However, a person who has already been owning on freehold, leasehold or hire-purchase basis a residential plot or house or flat in the U.T. of Chandigarh or in any of the Urban Estates of Mohali or Panchkula, shall not be eligible for the allotment of a D.U. by the Board. Further, persons who have been allotted a residential plot/dwelling unit in the Union Territory of Chandigarh or in any of the Urban Estates of Mohali or Panchkula through Government/Semi- Government/Statutory Corporation/Board/Municipal Committee/Corporation/ Registered Society like A.W.H.O. or a Co-operative House Building Society, in their name or in the name of their spouse or any minor children, shall also not be eligible for allotment of a dwelling unit or flat. The applicant shall further continue to fulfil these eligibility conditions from the date of opening of the scheme up to the date of delivery of possession of the dwelling unit by the Chandigarh Housing Board.

In addition to the above provisions, the applicant should be a bona fide resident of U.T., Chandigarh on the date of opening of scheme :

Provided that the condition of eligibility regarding the applicant being a bona fide resident of U.T., Chandigarh on the date of opening of the scheme shall not apply to the following categories of persons :—

- (i) Serving Defence Personnel and the Pensioners/Family Pensioners of the Defence Forces; and
- (ii) Employees of the Government of India, Punjab Government, Haryana Government and the U.T. Administration and their Boards/Corporations and Undertakings.
- (iii) Retired employees of the Government of India, Punjab Government, Haryana Government and the Chandigarh Administration and their Boards/Corporations/Undertakings.]

(2) The applicant shall furnish an affidavit in the prescribed form with regard to his eligibility along with the application. In the event of the affidavit being found false at any stage, the Board shall be entitled to cancel the registration or the allotment of dwelling unit or flat as the case may be, and to forfeit the deposit received with the application and all the payments made to the Board thereafter.

(3) The Board shall have the right to impose any additional condition of eligibility as may be determined and notified from time to time.

COMMENTARY

Allotment - Retrospective effect - Eligibility of a person for deciding his application for allotment of plot is seen at the time of deciding his application. Any subsequent amendment to the Regulation becomes inapplicable to the case of petitioner as the Board has no power to form Regulation with retrospective effect - *Dr. Trikha v. Union Territory*, 1991 (1) PLR 169 DB.

—Allotment - Forfeiture - The provisions of Regulation 6 (2) undoubtedly authorise the Board to forfeit the deposit or cancel the allotment in case the contents of the affidavit filed by the applicant are found to be false - However it is an

enabling provision - Such an order cannot be passed mechanically - Where the petitioner was not given proper opportunity to explain her position about the alleged false statement, the order of cancellation and forfeiture was held to be unjustified - *Smt. Ram Dulari v. Union Territory, Chandigarh*, 1994 HRR 67

—Fixation of Price - Where the respondent continued to challenge the price fixed and other matter and for that purpose he filed various representations before the Board, he did not deposit the amount due from him as a beneficiary of the allotment made by the Board. Ultimately the Board issued notice to the respondent and on non-compliance of the terms of the notice, the allotment made to the respondent, was cancelled. *Held*, the Board should consider the case of the respondent sympathetically for allotment of the dwelling unit to him on the terms mentioned in para 25 of the reply filed by the Board. In case the dwelling unit reserved for him has been allotted to some body else, then his case for any other alternative allotment of such unit should be considered. In this case the judgment given in *Baldev Singh's case* 1991 PLJ 443 was followed - *Chandigarh Housing Board v. Sh. Harjit Singh Joshan*, 1991 PLJ 491 D.B.

Allotment in violation of Regulation - Petitioner applied for allotment of house in response of an advertisement and deposited a sum of Rs. 20,000/- with respondent - His wife was already owning a plot in Delhi against which query was still pending when petitioner was allowed to participate in draw of plots of allotment and was successful - Respondent asked to deposit a sum of Rs. 3.40 lacs which was not deposited within stipulated period - Request for payment in instalment was declined - Respondent kept the amount of Rs. 20,000/- without any reason by keeping the inquiry about ineligibility pending for a long time - Respondent cannot forfeit this amount as it had directed petitioner to pay price of Rs. 3.40 lacs in lump sum - Petitioner is not entitled to allotment as being ineligible for the same under relevant law - Respondent directed to refund Rs. 20,000/- with 5% interest - *O.P. Sarwal v. Chandigarh Housing Board*, 2005(1) H.R.R. 36

Allotment of flat - Forfeiture - The petitioner allegedly made a wrong statement as a result of which allotment of her flat was cancelled - It was held by the Hon'ble High Court that the Board ought to have given the petitioner an opportunity to explain her position before cancellation of flat or forfeiture of the amount - *Smt. Ram Dulari v. Union Territory Chandigarh*, 1994 H.R.R. 67

Allotment of houses - It was due to certain reasons that housing department had extended the time for delivery of possession - Allotment was cancelled by Board for not taking the possession by allottee/petitioner - Some what tenuous stands was taken by the Housing Board - Order of cancellation of allotment set aside - Petition allowed - *Krishan Lal Pasricha v. Housing Board Haryana*, 2002 HRR 539

Allotment of plot and belated payment - The petitioner was allotted the flat on 12th March, 1987. In terms of agreement she was required to accept or refuse the allotment within 30 days of the issue of the letter. The payment was made belatedly on 29th April 1989 which was accepted by the Board. The Board contended that the allotment had deemingly being cancelled under clause 3. It was held that the Board could demand interest for the belated payment and it was not a deemed cancellation of the flat as the time is extendable under clause 4 of the Regulations - *Gurpreet Kaur v. Union of India*, 1989 PLJ 767.

Cancellation of allotment of flat - Appellant applied for allotment of HIG flat by making a false statement that he or any members of his family had acquired no house through Government, or municipal corporation in violence of terms of allotment - It was revealed that he had constructed a house in Noida under a scheme of Air

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Force Naval Housing Board - Allotment was cancelled due to suppression of fact - Order of cancellation was sustained by High Court - However, Housing Board refunded a sum of Rs. 806441/- out of Rs. 10,000,00/- deposited by appellant though Board was entitled to forfeit entire amount - But a major portion has been refunded - Impugned order upheld with the observation that show cause notice and order passed by High Court will not affect the carrier of appellant - *Harsh Vardhan Bansal v. Chandigarh Housing Board*, 2006(2) HRR 105 S.C.

Eligibility - Appellant applied for allotment under the Regulation 1979 stating that her husband had no residential house within boundaries of Chandigarh or adjoining areas - But a commercial flat was allotted to him on which residential house could be constructed under rules - Condition of prohibition laid down in Regulation 16 (1) is applicable - Allotment being in contravention of Regulation set aside - *Chandigarh Housing Board v. Narinder Kaur Makol*, 2006 (Suppl.) HRR 123 S.C.

Eligibility for allotment - Domicile of U.T. - Respondent claimed to be a domicile of U.T. Chandigarh for satisfying eligibility criteria - The Board was not satisfied with the eligibility of respondent for allotment of flat - He cannot fall back on the second eligibility criteria after failing to satisfy the first eligibility criteria - Respondent being a citizen of India cannot claim allotment as a domicile of Union Territory of Chandigarh - However, respondent on having succeeded to obtain a domicile certificate from competent authority can approach the Board for reconsideration of the matter - *Chandigarh Housing Board v. Gurmit Singh*, 2002 H.R.R. 503 S.C.

—Appellant Board served a notice on respondent to the effect that allotment of a housing plot made to him was in contravention of provisions of Regulation (6) of the Regulation, 1979 - The reason given was that respondent alongwith his wife was member of Cooperative Housing Society namely Army Welfare Housing Organisation and they were allotted a housing plot as member of the said society - Putting a correct construction to the provisions of Regulation 6 High Court found the allotment not suffering from any illegibility - The order does not suffer from any illegalities - Acquisition of any property through any agency (society) is not prohibited - The restriction clause in the condition of eligibility will have no application - Housing Board having a regulation making power could make an explicit provision if it intended to put any such restriction - *Harsh Vardhan Bansals case*, does not constitute any binding precedent - Allotment upheld - Appeal dismissed - *Chandigarh Housing Board v. Major Gen. Devinder Singh (Retd.)*, 2007(1) H.R.R. 477 S.C.

Eligibility - Chandigarh House Allotment lays down that applicant should be bona fide resident of UT Chandigarh for at least three years - In absence of fulfillment of this condition allotment to oustee rightly declined - 2007(2) HRR 663

Eligibility for allotment - Housing Board Chandigarh prepared a Scheme of Allotment of House on the basis of different categories of employees i.e. Employees of B and C categories in the year 2008 - Due to revise in pay scale by 6th Pay Commission some employees of C category became employee of B category and claimed the allotment of house on the basis of new categories - This controversy of B and C categories is the main subject matter of their writ petition - By taking into consideration relevant law as cited in various judgments allotment should be made as per categories of employees available at the date which application for allotment of flats were filed - If category is changed from C to B after closing of scheme on account of revised pay scale such employees cannot be given the benefit of the scheme - Subsequent eligibility condition cannot be

taken into consideration – Conversion of Group C to Group B was provisional only – Board is directed to prepare a fresh list of allotment pertaining to B category employees - *Sukhraj Singh v. Chandigarh Housing Board*, 2012(1) Haryana Law Reporter 277 D.B.

--Petitioner's daughter who was dependent on him was allotted a flat under Chandigarh Regulations of Allotment – In view of allotment to his daughter who is a member of his family – Petitioner cannot be made allotment under the Regulations – In the absence of any report about acquisition of right as a landowner before the Patwari, the daughter cannot claim that she is owner of land in her own capacity – Relief declined - *Harjeet Singh v. Chandigarh Housing Board*, 2014(2) Haryana Law Reporter 38 D.B.

Enhancement of price - The enhanced price had been claimed from the petitioner by the respondents without stating the circumstances which led them to enhance the price. Order of enhancement of price quashed and change of allotment of house without hearing the allottee was held wholly unjustified - *Smt. Chhaya Arora v. Haryana Housing Board*, 1990 (2) PLR 926.

—Self Financing Scheme while inviting application of allotment it was clearly stated that allotment of dwelling unit will be subject to Regulation, 1979 and strictly regulated in accordance with the terms and conditions given in the advertisement - It was clearly stipulated in the Scheme of allotment that there may be variations in the costs from time to time - Enhancement of price not open to challenge under Article 226 as parties are bound by terms of allotment - Bareilly Development Authority's case AIR 1989 SC 1076 reiterated - *Kulwant Singh v. Chandigarh Housing Board*, 2005(1) HRR 482

Enhancement of allotted flat - Petitioners were allotted multi-storeyed flats at Manimajra by the respondent Board - In category I tentative price of the flat was Rs. 4 Lacs and in category II it was Rs. 3 lacs - subsequently the price was enhanced to Rs. 6.25 lacs and 4.75 lacs respectively to be deposited by the petitioners - No reply was given to the representation made to the Board - *Held*, there is no justification for increasing the price arbitrarily - Notice of enhancement of price held liable to be quashed- However, it will be open to the Board to take further action in accordance with the terms and conditions of the contract in question - *Dalbir Singh Bhagat v. Chandigarh Administration*, 1993 H.R.R. 514.

Enhancement of sale price - The Chandigarh Administration decided to allot some land for construction of ten shops to Chandigarh Housing Board at the rate of Rs., 500/- per sq. yard - The Board, thereafter invited application for allotment of these shops in the year 1983 and again in 1986 - The allottees were issued demand-cum- allocation letters demanding Rs. 3.5 lakh each plus balance amount of Rs. 1.5 Lakh to be paid after the delivery of possession of the shop - It was in the year 1989 that the Board fixed and demanded Rs. 1205514/- against the tentative price of Rs. 500000/- as advertised earlier - *Held*, The price as demanded by the Chandigarh Administration vide its letter dated 31-10-1989 is hereby quashed with the direction that the allottees may be given possession of the shops at the rate of land as advertised earlier - *Maj General Ram Singh v. Chandigarh Housing Board*, 1991 H.R.R. 375.

False affidavit – A dwelling house was allotted to the petitioner by respondent on false affidavits that petitioner or any of his family member was not owning any house within Panchkula, Chandigarh or Mohali – But the S.P. had intimated that petitioner was owning a house No. 2373 in Sector 71 of Mohali – Allotment of house was cancelled on the basis of false affidavit – It is pleaded by the petitioner that he had sold this house in 1995 whereas allotment was made in 1996 - But

mere agreement to sell is not a sale as its sale deed was registered after the date of allotment – Order of cancellation of allotment upheld - *Raghubir Singh v. Advisor to Administrator, UT, Chandigarh*, 2012(2) Haryana Law Reporter 229 D.B.

Self Financing Housing Scheme, 2008 - Petitioner sold/transferred the earlier dwelling unit allotted to him at concessional rates to a third party by executing a tripartite agreement in violation of clause 5 of said agreement - As per terms of agreement, petitioner was not eligible for allotment of any dwelling unit under any scheme of the Chandigarh Housing Board - Petitioner is not eligible for allotment and is estopped from challenging the clause of agreement in view of 2006 (Suppl.) HRR 123 S.C. - Petition dismissed - *Parmeshwar Dutt Sharma v. U.T. Chandigarh*, 2008(2) HRR 439 D.B.

Transfer of allotted house - Lock in period – Allottee became absolute owner as he had paid all the installments – He is entitled to transfer the property without any permission of Allotment Authority – Condition of lock-in-period not applicable – 2015(2) HLR 58 D.B.

7. Manner of payment of price and Allottee's Obligations. - (1) When a property is disposed of by sale, every applicant shall deposit a sum equal to 25 per centum of the consideration money of the property or such amount as may be specified in the scheme. Such deposit shall be non-interest bearing unless otherwise declared by the Board to be interest bearing.

(2) An applicant to whom the property has been allotted shall have to pay the balance amount of the consideration money (i.e. after adjusting the deposit) as may be specified in the allotment letter either in lump-sum or in such number of instalments as may be prescribed therein.

(3) If payment of the balance of consideration money is made in instalments, the allottee shall have to pay interest on the balance amount of premium at the rate as may be fixed by the Board by prior intimation.

(4) In case any instalment is not paid by the allottee by the due date, a notice shall be served on him calling upon him to pay the instalment within a month together with penalty which may extend upto ¹[25] percent of the amount due. If the payment is not made within the said period or such extended period as may be allowed by the Board but not exceeding three months in all, from the date ²[—] on which the instalment was originally due, the Board may cancel the allotment and forfeit the whole or part of the consideration money and ground rent already paid in respect of the property and thenceforth the property shall vest in the Board.

(5) In case of an applicant who has not been allotted any property, the deposit made with the application shall be considered as deposit under any scheme which the Board may frame for further allotment of the dwelling unit unless the applicant applies for the refund of the said amount.

(6) The Board shall have the sole and exclusive right over the deposit till it is adjusted or refunded with or without deduction as provided in these regulations and the applicant shall execute all necessary documents as may be directed by the Board from time to time in this behalf to enable the Board to deal with such money.

³[(7) The allottee shall not sell, alienate, transfer or otherwise part with the possession of the whole or any part of the said property till he becomes the owner

1. Substituted by Chd. Admn. Gaz. (Extra) Notification No. HB(S)-G-2/96/11228 dated 30-8-1996

2. Omitted by Chd. Admn. Gaz. (Extra) Notification No. HB(S)-G-2/96/11228 dated 30-8-1996

3. Substituted by Chd. Admn. Gaz. (Extra) Notification dated 18-3-2005 published on 23-3-2005 at page 182

or for a period of 10 years from the date of actual possession, whichever is later except that —

(i) A lease for a period not exceeding 5 years at a time may be created.

(ii) The right, title and interest of the allottee may be mortgaged in favour of the Government, Life Insurance Corporation or any Scheduled Bank or any Corporate Body subject to first charge on the property for the unpaid portion of purchase price and other dues outstanding towards the allottee remaining in favour of the Board :

Provided further that such mortgage, lease, etc. can only be created with the prior permission of the Board and the Board will be competent to impose any condition while granting such permission.

Notwithstanding anything contained in sub-regulation (7) above, the Administrator, may at his discretion and for reasons to be recorded in writing, permit the allottee in genuine cases of hardship or on humanitarian grounds as he deems fit to sell, alienate, transfer or otherwise part with the possession of the whole or any part of the said property after he has made the full payment of the property to the Board].

COMMENTARY

Affidavit - The Oath Commissioner attested the signature of a dead person and the affidavit of a person who was not alive was filed in the Registry - Inquiry ordered against the Oath Commissioner - The Advocate on record who filed the affidavit was given warning for not indulging in such activities in future after he tendered an apology for this act - *Bihar State Housing Board v. Satya Narayan Prasad (dead) by L.Rs.*, 1998 H.R.R. 153 S.C.

Allotment - Revised policy of industrial sites for the establishment of printing presses called into question in writ petition - Revised policy does not suffer from any act of arbitrariness - Appellants formed a separate class - All persons who have applied for industrial sites for establishing printing presses were grouped together - No discrimination - Appeal dismissed - Constitution of India, article 14 - *Paradise Printers v. Union Territory of Chandigarh*, 1988 H.R.R. 409 S.C.

—Allotment of dwelling unit was cancelled without any notice to the allottee by Administration - Notice was not served with the plea that allotment was provisional and allottee failed to comply with terms of allotment letter - Plea not tenable as lack of opportunity has resulted in miscarriage of justice - Impugned order held to be violative of principles of natural justice - *Smt. Shashi Bala v. Chandigarh Housing Board*, 2001 HRR 232 D.B.

—School in park site - D.D.A. allowed respondent No. 2 to open a nursery school in a place which was reserved for a park - Allotment of site in favour of respondent No. 2 in the name of a school obviously is misuse of power - Allotment is liable to be cancelled - However, respondent can continue to run the school for a period of six months to enable them to make alternative arrangements to avoid harassment to the children - *Dr. G.N. Khajuria v. Delhi Development Authority*, 1995 H.R.R. 557 S.C.

Allotment of flats - As per regulation only one among wife, husband and their dependents was eligible of a building or a flat - In the present case both husband and wife applied separately and were made allotment of two flats - After discovery of real fact allotment made to the husband was cancelled and the entire amount was forfeited - It was pleaded by respondent-husband that he was having estranged relation with his wife and was entitled to make separate application - There is no force in the contention - Cancellation of allotment is not per se illegal,

so long as the marriage between husband and wife was subsisting - However, the Board was directed to forfeit only half of the amount deposited by the respondent - *Chandigarh Housing Board v. Avtar Singh*, 1995 HRR 471 S.C.

Allotment of Government houses - Cancellation - On an inquiring it was found that the petitioners who were allotted government houses had sublet the same and in consequence thereof their allotment was cancelled - Held, the mere fact that a cyclostyled order was passed, does not prove that there was no application of mind by the authorities concerned - *Balwant Singh v. Chief Secretary to Government Punjab*, 1989 H.R.R. 620 (D.B.)

Allotment of houses - Discretion - Petitioner deposited Rs. 1,000/- with an application invited by Housing Board for allotment of houses - Petitioner was unsuccessful for allotment in draw of lots - No objection was filed against the allotment through draw of lots - All the allottees were not impleaded - No reply about the letter giving option of choice of plots was given by petitioner - Moreover, writ petition was filed after a delay of more than one year - There is no illegality in the allotment - *Shamir Singh v. Chandigarh Housing Board*, 1995 H.R.R. 499.

Allotment of H.I.G. houses - Discrimination - The Housing Board allotted houses in favour of some officers and ignored the petitioner who was similarly situated - Order wholly unjustified - *Sh. L.R. Roojam v. Sh. K. Banarji, Chief Commissioner*, 1985 H.R.R. 220.

Arbitrariness - When there is a pure and simple contract between the parties, no relief can be granted to the petitioner in writ proceedings - But where increase in initial price of the plot was wholly unjustifiable, such increase can be challenged under Contract Act - Arbitrary increase in price of flat by the Housing Board recoverable from the petitioner ignoring the case of another allottees held to be violative of Article 14 of the Constitution - *Sukhpal Singh Kang v. Chandigarh Housing Board*, 1995 HRR 253.

—**Allotment of shops - Allegation of malafide and arbitrary allotment of shops/stalls by Minister of Housing - Allegation duly proved - Cancellation of allotment ordered - Show cause notice issued to the Minister - Government is directed to frame a policy within two months for re-allotment after cancellation of present allotment which should be fair and just - The Minister is required to show cause why damages should not be claimed from her for alleged misuse of power - *Shivsagar Tiwari v. Union of India*, 1997 H.R.R. 98 S.C.**

Cancellation of allotment - Housing Board is the competent authority under the Regulations - Approval of draft order by the Chairman of the Board does not mean that order was passed by the Chairman - Under the Act Chairman of the Board alone is not competent to pass the order unless other members of the Board pass the same jointly - The impugned order of cancellation of plot deserves to be set aside - *Rattna Ram v. Chandigarh Housing Board*, 1997 HRR 482.

Discrimination - Rajasthan Housing Board started a self housing scheme - Applicants were grouped into four quarters - Possession was to be given after construction of houses by phases - After granting allotment for the first quarter construction for the remaining quarters was delayed which was beyond control of the Board - Enhanced price was demanded of the remaining quarters from the allottees - Discriminatory treatment about the remaining quarters was alleged - The contention is without any force - Board committed no error in determining the cost differently in respect of 2nd, 3rd and 4th quarters as the Board had borrowed huge amount from various sources for which interest was payable - Plea of discriminatory treatment rejected - *Awasan Mandal Parijat Ayawarg Sangharsh Samiti v. Rajasthan Housing Board*, 1997 H.R.R. 425 S.C.

Enhanced price - Although courts have been, from time to time, upholding the excess prices charged by Development Authorities in the circumstances of the cases, but it does not mean that Authorities have absolute right to hike the price of flats initially announced as approximate or estimated cost of such flats - Authorities owe a duty to explain and to satisfy the Courts, the reasons for such escalation - *Indore Development Authority v. Sadhana Agarwal*, 1995 HRR 552 SC

Equity - Respondent obtained allotment of plot in his favour concealing the fact of allotment of another plot in his name within the same Municipal Area - Violation of undertaking given to Allotment Authorities - Cancellation of second allotment justified - No equitable relief can be granted to respondent - *Bihar State Housing Board v. Satya Narayan Prasad (dead) by L.Rs.*, 1998 H.R.R. 153 S.C.

Forfeiture - Cancellation of allotment - Respondent was allotted a house under the Economically Weaker Section Scheme - She misstated the facts of monthly income resulting in the cancellation of plot - A petty amount being forfeited - Forfeiture of hire purchase deposit was set aside by the authorities below - There is no illegality with the impugned order - Petition stands dismissed - *Housing Board Haryana v. Smt. Raj Rani*, 1997 H.R.R. 271.

Incomplete construction - Respondent allottee had been informing the appellants Board, time and again, for making the flat residentiable by putting up fittings and fixtures without which the flat remains only in a skeleton form - It was being used for storing cement by the Board - Respondent without completion of construction of flat cannot be compelled to execute the agreement to pay the revised rate of the flat with interest - Dismissing the appeal of Board it is directed to comply with the directions of the High Court issued vide its order dated 2.2.1993 - *Bihar State Housing Board v. Lalit Ram*, 1997 H.R.R. 243 S.C.

Increase in price of Houses - Petitioners were allotted houses by respondent Board, of various categories, on the basis of tentative price - Prices were revised frequently which forced the petitioners to challenge the same - The Board furnished details of the grounds for revising the price of houses - As regards the profits added on the amount which is total of expenses on building portion, public health, electric installation, interest on land and building cost, it is justified - There is no logic for adding cost of land, interest on land cost and building cost towards the cost of construction of flats for determining the profit - There was no justification to charge profit on cost of land by contending that the procedure is followed as suggested by the HUDCO - The writ petition is accepted to that extent - *Mathura Parshad v. Chandigarh Housing Board*, 1996 H.R.R. 118.

Interest - Housing Board paying interest to HUDCO - Charging of interest at the same rate from allottees is not arbitrary - *Mathura Parshad v. Chandigarh Housing Board*, 1996 H.R.R. 118.

Officer's liability - An officer allowing unauthorised construction at a public place should not be allowed to go scot free - Such officer is more to be blamed than the recipient of the illegal benefit - It is imperative that while undoing the mischief which would require the demolition of the unauthorised construction, the delinquent officer has also to be punished in accordance to the law - In the present case D.D.A. was directed to make inquiry against the officers concerned and inform the apex court within three months for passing further orders in this regard - *Dr. G.N. Khajuria v. Delhi Development Authority*, 1995 H.R.R. 557 S.C.

Reservation of plot - If any reservation is under in violation of provisions of the Act, the same cannot be sustained - Reservation was made in the name of

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

industrial workers in violation of legal provisions – Some tenements after making allotments to women workers remained un-allotted which were allotted to the industrial workers which was not permitted by Regulation 7 (2) of the Regulations, 1972 – Allotment being in violation of the provisions of Regulation set aside - *Kapil Dev v. Housing Board Haryana*, 2013(1) Haryana Law Reporter 250

Tentative price - Increase in price - Enhancement of price is justified only when there is increase in price of acquired land or if cost of construction or labour charges have been increased - Mere mentioning a price as tentative as it has become a universal practice adopted by the Board, does not make the increase in price justifiable - Increase in tentative price being arbitrarily and cannot be sustained - *Sukhpal Singh Kang v. Chandigarh Housing Board*, 1995 HRR 253.

Violation of legal provision – Encroachment – Show cause notice – Grievance of the petitioner is against a show cause notice by respondent for encroachment on government land and issuance of notice without any legal authority – The plea that issuance of notice under Punjab Capital Act and also under Housing Board Act is against law – Held, the objection is without any merit in view of decision rendered by this Court in Paramjeet Singh's case decided on 4.3.2012 (CWP No. 16970 of 2007) when it was held that Capital of Punjab Act, 1952 is applicable to urban as well as rural area of UT, Chandigarh as envisaged by section 4 of the Punjab Re-organisation Act, 1966 – The objection is repelled – But as no opportunity of hearing after issuance of notice and passing of an order was given to the petitioner, the impugned order is not legally sustainable – Impugned Order quashed – Case remanded to pass an order after hearing the petitioner – Petition allowed - *P.S. Sawhney v. Chandigarh Housing Board*, 2012(1) Haryana Law Reporter 499 D.B.

Writ remedy - Once the procedure adopted by the authority is held to be against the mandate of Article 14 the Court cannot ignore such action saying that the authority concerned must have some liberty in contractual matters - Although ordinarily Article 226 of the Constitution is not a proper remedy for re-opening of contracts or for getting back the purchase money paid under the contract - *Mathura Parshad v. Chandigarh Housing Board*, 1996 H.R.R. 118.

8. Manner of payment of Hire-purchase price. - (1) The hire-purchase deposit shall be a sum as may be decided by the Board from time to time. Such deposit shall be payable along with the application and it shall be non-interest bearing unless the Board otherwise provides in the scheme. Such deposit shall be adjusted at the time of allotment of dwelling unit.

(2) In the case of any applicant who has not been allotted any property, the deposit specified in sub-regulation (1) above shall be considered as deposit under any scheme which the Board may frame thereafter unless the applicant applies for the refund of his amount.

(3) In the case of an applicant to whom an allotment letter has been issued and who has failed to fulfill the requirements as specified in the allotment letter, a sum up to 20 per centum of the deposit shall be forfeited and the balance refunded.

9. Period of Hire-purchase. - The hire-purchase period shall be such as may be provided in each scheme framed by the Board under these Regulations.

10. Monthly instalments and Hirer's Obligations. - (1) Subject to the provisions of regulation 7, the balance of hire-purchase price of the property including interest thereon at such rates as may be fixed by the Board shall be recov-

ered in such number of monthly instalments as may be specified in each scheme. The amount of each instalment shall also be such as may be fixed by the Board in every case :

Provided that the hirer may make the payment of the balance of the consideration money in lump sum.

¹[(2) The hirer shall not sell, alienate, transfer any of his rights or interest in the said property or otherwise part with the possession of the whole or any part of the said property till he becomes the owner or for a period of 10 years from the date of actual possession, whichever is later, subject to the under mentioned exceptions :—

- (i) A lease for a period not exceeding 5 years at a time may be created.
- (ii) The right, title and interest of the hirer can be mortgaged in favour of the Government, Life Insurance Corporation or any Scheduled Bank or any Corporate Body, provided the Board shall have first and paramount charge on the said property for the unpaid portion of purchase price and other dues outstanding against hirer including penalty, if any :

Provided further that such mortgage, lease, etc. can only be created with the prior permission of the Board and Board will be competent to impose any condition while granting such permission.

Notwithstanding anything contained in sub-regulation (2) above, the Administrator may at his discretion for reasons to be recorded in writing permit the hirer in genuine cases of hardship or on humanitarian grounds as he deems fit to sell, alienate or transfer any of his rights or interests in the said property or otherwise part with the possession of the whole or any part of the said property after he has made the full payment of the property to the Board.]

11. Use of Property. - (1) The allottee or the hirer shall be bound to comply with the conditions as to use, if any, imposed either under the letter of allotment or hirer-purchased tenancy agreement, or lease deed as the case may be, as well as any conditions imposed on the Board by the Government while transferring land to the Board.

(2) The allottee, hirer and any other person occupying the property shall abide by the provisions of the Capital of Punjab (Development and Regulation) Act, 1952 and the rules made thereunder :

Provided where the person occupying the property is other than allottee or hirer, as the case may be, the responsibility to abide by the above stated Act and Rules shall be joint and several on the part of occupant, allottee or hirer as the case may be.

12. Payment of Documental Charges. - All documental charges shall be borne by the allottee or hirer.

13. Payment of Rents, Fees, etc. - All rents, fees, taxes, charges assessments, Municipal or otherwise and other levies of whatsoever nature shall be borne by the allottee or hirer as the case may be and shall be payable by the allottee or hirer within the period specified in this behalf :

Provided that in every case of default of payment of rent or damages by the allottee or hirer, the Board shall have the power to recover the same as arrears of land revenue in accordance with the provision, of section 52 of the Act.

1. Substituted by Chd. Admn. Gaz. (Extra) Notification dated 18-3-2005 published on 23-3-2005 at page 182

14. Allottee/Hirer precluded from objecting to property circumstances.

- The Board shall offer the property on hire purchase or sale on the basis of property circumstances that exist at the time of allotment or delivery of possession whichever is later. The allottee or hirer shall fully make himself conversant with the property circumstances and he shall be precluded from making complaint or raising objections or setting up claims regarding the property circumstances at any subsequent state.

15. Administration of common Portions/Services. - (1) The Registered Agency shall be responsible for the maintenance, up-keep, running, control and regulation for use of common portions and common services of each block in a Housing Estate and it shall be the duty of such agency to administer these common portions and common services in accordance with the relevant agreement. The allottee/hirer shall be liable to pay to the Registered Agency, the charges for the purpose as decided by the Board. Such charges shall be deemed to be included in rent. In case of failure on the part of allottee/hirer to make such payment, the Board shall have the power to recover such amount as arrears of land revenue.

(2) In case of multy-storeyed buildings the allottees or the hirers, as the case may be, of the particular portion/flat/dwelling unit of a building on any particular site, shall be jointly and severally liable in respect of the conditions of transfer of the site.

16. Transfer of Registration/Property. - Notwithstanding anything contained in these regulations, the Board may transfer the registration number or any property after a period of 5 years from the date of physical possession by Imposing such terms and conditions as it may deem fit.]

17. Cancellation of lease. - The Board may cancel the lease of any allottee or hirer of a particular portion/flat on the grounds of breach of any conditions of allotment and forfeit whole or part of the money already paid to the Board and thenceforth the property shall vest in the Board :

Provided a reasonable opportunity of being heard is provided to the allottee/hirer before cancelling the lease.

COMMENTARY

Cancellation of allotment - Allottee had paid 148 installments out of 179 installments alongwith ground rent - Non-payment was not willful or deliberate - Order of cancellation of allotment unjustified - 2015(1) HLR 315 D.B.

Cancellation of allotment - Petitioner was not provided any opportunity of hearing before cancellation of allotment of house for non-payment of installment - Order not legally sustainable - 2016(1) Har. LR 560 D.B.

Cancellation of plot - Automatic cancellation - Where the allottee neither conveyed acceptance nor paid the amount asked for, within 30 days of the receipt of allotment letter, it was held, that allotment stands automatically cancelled under regulation 5(5) of the Hr. Regulation 1978 - *Smt. Aruna Luthra v. State of Haryana*, 1987 (2) PLR 124 = 1986 PLJ 486 = 1986 Rev. L.R. 324.

- Opportunity - In *S.R. Dass v. State of Haryana & ors.* 1988 PLJ 123 (D.B.) where the allotment of plots was made to various persons out of the discretionary quota of the Government made by successive ministries and at the instance of Lok Dal ministry orders of cancellation of allotment of residential plot were made. These orders of cancellation were challenged before the Hon'ble Pb.

& Hr. High Court - Whereupon the Division Bench made the following observations : That blanket order of cancellation is liable to be struck down (i) Where the Govt. did not apply its mind or acted arbitrarily or where no guide lines were laid for allotting plots carved out of green belts or areas reserved for public purposes (ii) Where allottees started construction after getting plans sanctioned (iii) Where HUDA did not apply its mind at all before issuing letter of cancellation. (iv) Where no show cause notice was given for cancellation as post decisional hearing would not meet ends of justice and (v) Where the *bona fide* purchaser for consideration from the original allottee was protected by Sec. 41 of T. P. Act.

Held further, that Courts always have control over arbitrary acts of Executive authority. The executive authority is required to discharge its function in good faith and fairly and not in arbitrary way. Unchecked Power is alien to rule of law - *S.R. Dass v. State of Haryana*, 1988 PLJ 123 = 1988(1) PLR 430 = 1988 RRR 370.

Power of resumption - Constitutional Power - No constitutional invalidity can be imputed to power of resumption under the Act. The very concept of a planned urban development is now a well recognised social norm of a welfare State. Challenged to constitutionality of provisions of Act on the basis of principles enunciated in *Olga Tell's case* AIR 1986 S.C. 180 cannot be sustained - *Surat Singh v. State of Haryana*, 1990 PLJ 126.

Power of resumption - Weapon of last resort - Where construction of building was to be started within two years as precondition of allotment letter. The allottee could not start construction within the stipulated period as the actual possession of the plot was not delivered to him by the authorities. Held, order of resumption on the ground of failure to construct the building within the said period is wholly arbitrary. Power of resumption must be used as a weapon of last resort with great caution by the authority under the Act - *D.N. Kajriwal v. State of Haryana*, 1987 PLJ 532.

CHAPTER III PROCEDURE FOR DISPOSAL OF PROPERTY

18. Issue of Public Notice. - The Chairman or the officer authorised by him in this behalf, shall cause a public notice to be issued, in at least two newspapers having wide circulation in the Union Territory, Chandigarh and in the manner prescribed by him inviting applications for the allotment of property.

19. Form of Application. - (1) The application shall be made in the prescribed form to the Chairman, Chandigarh Housing Board.

(2) All applications received shall be entered serially in the application register.

20. Application to be acknowledged. - The person receiving the application shall give an acknowledgement of the application.

21. Rejection of invalid application. - An application which is incomplete in any respect shall be returned to the applicant and he shall be asked to rectify the defects pointed out to him and if he fails to rectify the defects within the stipulated period, his application thereafter shall not be entertained.

22. Constitution of Property Allotment Committee. - The Board shall for the purpose of allotment of property under these regulations constitute a committee to be called the Property Allotment Committee consisting of not more than five members of whom one shall be appointed as a Chairman.

23. Scrutiny of Applications. - The committee shall determine which of the applicants are eligible for allotment and the decision of the committee in this regard shall subject to an appeal to the Board within thirty days of the decision of the committee, be final.

24. Allotments. - The allotment of property to the eligible persons shall be made by draw of lots under the supervision of the committee or in such other manner as may be determined by the Board.

25. Reservation of Dwelling units or Flats. - Unless otherwise provided or specified by the Board, out of the total number of dwelling units/flats, the reservation in favour of the applicants shall be to the extent of—

(i) 12-1/2 per cent of total dwelling units/flats in each category in favour of applicants belonging to scheduled castes and scheduled tribes ¹[as notified for the Union Territory of Chandigarh];

²[(ii) 5 per cent of the total number of dwelling units in favour of serving Defence Personnel and the Pensioners/Family Pensioners of the Defence Forces;]

(iii) 5 per cent in favour the ³[other Backward Classes] as are notified or specified by the ³[Chandigarh Administration];

(iv) 5 per cent of the employees of the Punjab and Haryana Governments and the U.T. Administration and Corporation and Boards of the U.T. Administration who have retired or who may retire within three years ¹[from the date of opening of the Scheme];

⁴[(v) Five percent in favour of persons with benchmark disability, with appropriate priority to women with benchmark disabilities; strictly as per "The Rights of Persons with Disabilities Act, 2016" notified on 28th December, 2016 by Ministry of Law and Justice, Govt. of India, New Delhi.]

⁵[Provided that if sufficient applications are not forthcoming from any of the reserved categories mentioned above another attempt shall be made to invite applications from the aforesaid categories of persons and if on second attempt sufficient applications are not forthcoming the half of the reserved dwelling unit/flats shall be allotted to the applicants in the general category.]

COMMENTARY

Allotment of H.I.G. houses - Discrimination - The Housing Board allotted houses in favour of some officers and ignored the petitioner who was similarly situated - Order wholly unjustified - *Shri L.R. Roojam, P.C.S. Judicial Sub-Divisional Magistrate v. K. Banarji, Chief Commissioner, 1985 H.R.R. 220*

Allotment - Classification - Provision of Chandigarh Housing Board Regulations 1979 have been challenged by petitioner with the plea that these regulations reserving 100% allotment of dwelling unit to employees of UT Chandigarh are in violation of Article 14 of the constitution - Classification of applicants for allotment is totally in violation of constitutional provisions as held in *Deepak Sibbal's case AIR 1989 SC 903* - Contention is without merit - There are 5744 employees in Chandigarh Administration comprising different categories A, B, C & D - They have no house of their own in Chandigarh, Panchkula or Mohali - They have been raising their voice for allotment since long - Administration have floated 5 different schemes for general public - There is no violation of any

1. Added by Chd. Admn. Gaz. (Extra) Notification No. HB(S)-G-2/96/1128 dated 30-8-1996

2. Substituted by Chd. Admn. Gaz. (Extra) Notification No. HB(S)/EAI/2K8/4429 dated 17-3-2008 at page 456

3. Substituted by Chd. Admn. Gaz. (Extra) Notification No. HB(S)-G-2/96/11228 dated 30-8-1996

4. Substituted by Chd. Admn. Gaz. (Extra) dated 10-9-2020 published on 11-9-2020 at page 985

5. Substituted by Chd. Admn. Gaz. (Extra) Notification dated 19-9-1990 published on 30-10-1990

provision of Constitution - Said authority cited above is distinguishable - Petition dismissed - *Anil Kumar v. U.T. Chandigarh*, 2008(2) HRR 58 D.B.

26. Discretionary allotments. - The Administrator, may in his discretion allot 5% of the total number of dwelling units/flats under any scheme to any person:

Provided that the allotments of flats/dwelling units under the discretionary quota, shall be made only to the persons falling under any one of the following categories and who fulfil the eligibility criteria laid down in regulation 6, namely:—

- (i) War widows and widows of defence services personnel/para military/police personnel killed in counter insurgency operation and border incidents.
- (ii) Persons who have suffered 50% or more disability in war, counter insurgency or counter terrorism operations anywhere in India.
- (iii) Widows of victims of terrorism.
- (iv) Persons who have performed acts of heroism to save human lives.
- (v) Gallantry award winners and persons who have distinguished themselves in any field such as sports, social welfare, education and academics or fine arts at the national level.]

27. Formation of Groups of Allottees. - The committee shall prepare a final list of allottees/hirers and shall place them in such group or groups²[—] as may be deemed expedient for the purpose of constituting a Registered Agency.

28. Entry of final list of allottees in a Register. - On the basis of final list of allottees/hirers, an allotment register shall be prepared in which names and other particulars of allottees/hirers shall be entered.

29. Issue of Allotment Letter. - Intimation about allotment shall be sent by registered post or through a messenger of the Board to all persons who have become entitled to allotment of a dwelling unit/flat.

30. Intimation about grouping of allottees/hirers. - (1) Intimation about allotment mentioned in regulation 29 shall include the grouping of allottees/hirers for the purpose of formation of Registered Agency if any as determined by the Committee.

31. Hire-purchase Tenancy Agreement. - (1) Each hirer shall execute a hire-purchase tenancy agreement in such form as may be prescribed by the Board before being given actual possession.

(2) Each hirer shall before executing the said agreement, pay to the Board the instalment of the price as provided in regulation 10.

32. Handing over of possession. - (1) The possession of the property shall be handed over to the hirer on the fulfilment of the following conditions:—

(a) The hirer has paid the first instalment and such other dues as have been demanded by the Board;

(b) The hirer has executed the agreement mentioned in regulation 31

(2) In case of disposal of property by way of sale, the possession of the property shall be handed over to the allottee, after such allottee has paid 25 per cent of the consideration amount or such amount as is prescribed by the Board.

1. Substituted by Chd. Admn. Gaz. (Extra) dated 25-4-2003 published on 30-4-2003 at page 847
2. Omitted by Chd. Admn. Gaz. (Extra) Notification dated 11/12th August, 2000 at page 741

CHAPTER IV REGISTERED AGENCY

33. Formation and Function of Registered Agency. - (1) All persons who have been grouped under regulation 17 shall constitute themselves into a Registered Agency (hereinafter called Agency) under these regulations which shall include as its objects the following:—

- (i) To discharge such duties and responsibilities as are specified in these regulations and the agreements made thereunder for the proper maintenance, running, upkeep and keeping in good repair common portions and common services of such property as have been allotted to its constituent members;
- (ii) To pay on behalf of the Agency and on behalf of each constituent member of such Agency all rates, taxes, fees, charges, assessments municipal or otherwise and other levies of whatsoever nature as provided in the regulations and agreements executed with the Board;
- (iii) To look after the interest of constituent members;
- (iv) To execute with the Board agreements, lease-deed or documents, as specified in these regulations,—

(2) The Registered Agency shall be responsible at its own cost for carrying out current as well as special repairs to and maintenance of the common portions and common services to the satisfaction of the Board and in accordance with the provision of the relevant agreement:

Provided that in case of failure in the discharge of such responsibility on the part of the Registered Agency, the Board may discharge it and the expenses thus incurred by the Board (whose decision as to the amount of such expenses shall be binding on the Agency) shall be recoverable from the Agency as arrears of land revenue.

34. Constitution of Registered Agency. - The constitution of the Agency and the bye-laws governing its functioning shall be such as may be approved by the Board.

35. Application for Registration. - (1) Every such Agency shall make an application to the Chairman for registration under these regulations.

(2) The Chairman after he is satisfied that the constitution of the Agency is in accordance with these regulation, shall register such Agency and issue a certificate of registration, to the Agency and a certificate of membership to each constituent member of the Agency.

Further if so directed by the Chairman, the Agency shall get itself registered under the Societies Registration Act, 1960. within such period as may be prescribed by the Chairman.

36. Execution of documents by Agency. - No hire-purchase agreement, lease-deed or other documents shall be executed with the Agency until the requirements of regulation 35 have been completed.

37. Election of Managing Committee. - The Chairman or any other officer authorised by him shall, as early as possible, call a meeting of the Agency for electing a President, Vice-President, Secretary, Treasurer and one member who shall together constitute the Managing Committee of the Agency.

38. Time Limit for Execution of Agreement. - The Agency shall within such period as may be prescribed by the Chairman execute the agreement in regard to common portions and common services with the Board.

39. Responsibility of registered agency about Services. - The Agency and each of its constituent member shall be responsible for ensuring that :—

- (a) No damage or deterioration to the property handed over in terms of the agreement under these regulations, is caused ;
- (b) no installation or equipment connected with or provided as part of water supply, sewerage, storm water, drainage, electricity or other service shall be tampered with ;
- (c) no construction within the property shall be made otherwise than with the prior sanction of the Board ;
- (d) no obstruction to a person duly authorised shall be caused so as to create difficulties in the discharge of his duties in connection with the matters arising out of the management of property ; and
- (e) no obstruction to common portions shall be caused or misuse of the property shall be made such as :
 - (i) occupying common passages, staircases, approaches and the like ;
 - (ii) throwing garbage or refuse within the precincts of the property or outside it ;
 - (iii) Keeping a vehicle so as to obstruct the free movement ; and
 - (iv) creating insanitation or nuisance.

40. Liability of Constituent Member. - The liability of each constituent member shall be limited to the liability prescribed in the constitution of the Agency as laid down in these regulations.

41. Control by the Board over the affairs of the Agency. - The Chairman as the registering authority shall have the power to :—

- (i) call for the information from the Managing Committee or any constituent member of the agency in connection with the affairs of the agency ;
- (ii) regulate the relations between a constituent member and the agency ;
- (iii) call an extraordinary meeting of the Managing Committee or of the general body of the agency if in his opinion such a meeting is necessary or desirable ;
- (iv) inspect on a complaint such record and account of the Agency as he may deem fit ;
- (v) issue any directive for securing the efficient functioning of the affair of the Agency which shall be binding on the agency ; and
- (vi) revoke registration of the Agency for good and sufficient reasons to be recorded in writing.

(2) Where the registration of an agency has been revoked in pursuance of sub-regulation (vi) of this regulation, the Chairman may either direct the formation of a new Registered Agency or take over functions of the Registered Agency himself.

(3) Any dues payable to the Board by the Agency or its constituent members shall be deemed as rent and shall be recoverable by the Board as arrears of land revenue.

(4) If any dispute or difference of opinion arises between the President of the Managing Committee or the Managing Committee and constituent member of

amongst members inter se or between any party connected with the property by which the Agency and the constituent members are concerned in terms of agreements with the Board, such dispute or difference of opinion shall be decided by the Chairman or by his authorised representative after hearing the parties concerned and his decision shall be final.

CHAPTER V HIRE-PURCHASE TENANCY AND TRANSFER OF OWNERSHIP

42. Status of hirer. - ¹[During the subsistence of Hire-purchase period, a hirer shall remain the tenant of the Board and shall have no right except those under tenancy. He may, however, sub-let the premises under intimation to the Board and, in doing so, it shall be the liability of the hirer to ensure that none of the terms and conditions of allotment/hire-purchase is violated.]

43. Enforcement of Provisions of agreement. - If the hirer of the Registered Agency, as the case may be, fails to do anything or refrains from doing a thing as required by the agreement executed under the regulations, the Board shall have the power to get such things done or prevent such things being done at the risk and cost of the defaulting party.

44. Transfer of ownership to hirer. - The hire shall cease to be a tenant and shall become the owner of the property only after the last instalment of hire-purchase and all other dues have been paid by him to the Board and the transfer of the property to him has been effected through a conveyance deed lease deed executed in such form as may be prescribed by the Board and the common portions and common services, if any, have also been taken care of.

45. Transfer of ownership to Allotment/Lessee. - When the property is disposed of by way of sale, the allottee/lessee shall become the owner only after the full price and all other dues have been paid by him to the Board and the transfer of the property has been effected through a conveyance/lease deed executed in such form as may be prescribed by the Board and the common portions and common services, if any, have also been taken care of.

46. Lease Deed for Land Under Flats. - (1) The land under and appurtenant to a property shall be allotted on lease-hold basis to the owners of the property on such terms and conditions as may be determined by the Board or as may be imposed on the Board by the transferrer (Government) from time to time.
(2) A lease deed for the land specified in sub-regulation (i) shall be drawn up and executed in such form as may be prescribed by the Board.

47. Status of flat. - Each flat, together with its undivided interest in the common portions and common services, appurtenant to such flat, shall for all purposes constitute heritable and transferable immovable property within the meaning of any law for the time being in force and accordingly, a flat owner may transfer, subject to the provision of these regulations and any law in force, his flat

and the percentage of undivided interest in the common portions and common services appurtenant to such flat by way of sale, mortgage, lease, gift, exchange or in any other manner whatsoever in the same manner, to the same extent and subject to the same rights, privileges and obligation, liabilities, investigations, legal proceedings, remedies and to penalty, forfeiture and punishment as any other immovable property or make a bequest of the same under the laws applicable to the transfer and succession of immovable property :

Provided that the common portion and common services shall remain undivided and no flat owner or any other person shall bring any action for partitions or division of any part thereof :

Provided further that each flat owner may use common portions and common services in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other flat owners.

48. Decision of the Board to be final. - If in or in connection with the exercise of its powers and discharge of its functions by the Board, any dispute arises between the Board and the Registered Agency, an allottee or a hirer, the decision of the Board on such dispute shall be final.

49. Delegation of powers. - The Board may delegate all or any of its powers under these regulations to the Chairman or to any of the members or officers of the Board.

50. Relaxation. - Power to relax any of the provisions of these Regulations in any case or cases or exceptional circumstances to be recorded in writing shall rest with the Board.

51. Removal of Doubts. - If any doubt arises as to the interpretation of any provisions of these regulations, the matter shall be referred by the Board to the Administrator or such other authority, as may be specified by the Administrator and the administrator of such authority shall decide the same.
