

**(2024) 11 NCDRC CK 0009**

**National Consumer Disputes Redressal Commission**

**Case No:** Revision Petition No.733 Of 2018

Rajasthan Housing Board

APPELLANT

Vs

Lata Chaudhary

RESPONDENT

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**Date of Decision:** Nov. 14, 2024

**Acts Referred:**

- Consumer Protection Act, 1986 - Section 21(b)

**Hon'ble Judges:** Sudip Ahluwalia, Presiding Member; Rohit Kumar Singh, Member

**Bench:** Division Bench

**Advocate:** N. K. Chauhan, Surya Prakash Gandhi

**Final Decision:** Disposed Of

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**Judgement**

Rohit Kumar Singh, J

1. The present Revision Petition No. 733 of 2018 has been filed by the Petitioner under Section 21(b) of the Consumer Protection Act, 1986 against the impugned order dated 01.11.2017 passed by the State Consumer Disputes redressal Commission, Rajasthan, Jaipur Bench No. 1 in First Appeal No. 227/2017.

2. Brief facts of the case, as per the Petitioner are that the Petitioner launched a housing scheme namely Special Registration Scheme-2009, for Nasirabad/Gadhi Thoriyan, Beawar, Distt. Ajmer for allotment of houses/flats in 2009. The respondent applied for flat in the above scheme on 17.08.2009 for Middle Income Group-A (MIG-A) on Hire-Purchase payment mode and submitted the application form no. 5016 with registration amount of Rs. 50,000/- contrary to the schedule of scheme, as the respondent was having annual income of Rs. 2,10,000/- (as mentioned in the application form) which was categorized under higher income group. The registration amount must be as per the annual income category of the applicant thus, the

respondent ought to have deposited the registration amount of Rs. 1,20,000/- as per the schedule provided in the brochure. The Respondent submitted an affidavit in support of her income mentioning her income as Rs. 1,50,000/- per annum.

3. The Petitioner organized a lottery dated 01.10.2009 in which the respondent was allotted priority no. 6. The petitioner board issued a reservation letter no. 1958 dated 12.07.2010 for demanding the seed money/advance amount in three installments. The Petitioner board issued a letter no. 1983 dated 14.09.2011 demanding the income certificate of Respondent's husband for the year 2008-09. Respondent's husband submitted a copy of total income computation with his letter dated 20.09.2011, without any affidavit in support, wherein his total income was mentioned as Rs. 1,35,780/-. The petitioner board issued a letter no 2152 dated 21.10.2011 explaining that the annual income of Respondent and her spouse is in the category of higher income therefore proper registration amount was not deposited and requested to deposit the balance amount of Rs. 70,000/- and submit a third copy of challan with the office of resident engineer.

4. The Respondent submitted a letter dated 31.10.2011 with her affidavit wherein she disclosed her total annual income as Rs. 1,80,000/- including the total income of her husband. The Petitioner again issued a letter no. 3595 dated 20.03.2012 reminding to deposit the balance registration amount of Rs. 70,000/-. The respondent deposited the balance amount through DD dated 26.03.2012 and submitted the copy of challan dated 27.03.2012 with her letter and affidavit in the office of petitioner board. The petitioner board decided on 31.01.2013 that the registration and reservation should be cancelled on the ground of concealment of facts amounting to misrepresentation and FIR should be registered against Respondent for submitting false affidavits with the Petitioner board.

5. The Respondent filed a Consumer Complaint No. 338/2014 dated 20.10.2014 before the District Forum, Ajmer against the Petitioner praying for allotment of house of MIG-A and claiming compensation. The District Forum, vide order dated 13.01.2017 dismissed the complaint and held that the Respondent/Original Complainant furnished false affidavits regarding income which are self-contradictory therefore she is not entitled for allotment of house.

6. The Respondent filed First Appeal 227/2017 dated 27.02.2017 before the State Commission, Rajasthan, Jaipur against the order dated 13.01.2017 passed by the District Commission. The State Commission allowed the appeal and reversed the order of the District Forum.

7. The Petitioner challenged the impugned order mainly on the following grounds:

i) The State Commission failed to appreciate that the Respondent furnished false affidavits in support of her income. She stated her income as Rs. 2,10,000 per annum in application form. The income was then disclosed as Rs. 1,50,000 per annum in affidavit dated 17.08.2009. The income was disclosed as Rs. 1,35,780 in reply dated 31.10.2011. The income was disclosed as Rs. 1,80,000 per annum, in affidavit dated 31.10.2011. There were material contradictions in all the affidavits and documents.

ii) That the State Commission failed to appreciate that the applicants may have applied under any group one rank lower or higher than his/her annual income category, but the registration amount must be deposited as per the annual income category of the applicant. Therefore, in the present case, the Respondent ought to have deposited the registration amount of Rs. 1,20,000/- as per the schedule provided in the brochure through the Respondent applied for MIG-A house under the scheme. The State Commission directed to restore the registration for HIG category house to which the Respondent neither applied nor transferred under this scheme nor even prayed in her complaint, therefore the impugned order is liable to be set aside.

8. The Learned Counsel(s) for the Petitioner submitted/argued that the Respondent is not entitled to any relief as she has concealed the material facts regarding her income and submitted false affidavits with different income in all the affidavits which are self-contradictory as per the terms and conditions of the scheme and directed to restore the registration and priority should be fixed in the HIG category of 2012 to which respondent is not entitled, as the Respondent applied for MIG-A category house. It was further submitted that the Respondent was merely a registered applicant and mere registration does not give any right to claim any benefits under Consumer Protection Act to obtain any order for allotment without participating in the lottery draw, therefore, the relief granted under the impugned order is not sustainable. It was further submitted that the applicants may have applied under any group one rank lower or higher than his/her annual income category, but the registration amount must be deposited as per the annual income category of the applicant, therefore in the present case the Respondent ought to have deposited the registration amount of Rs. 1,20,000 as per the schedule provided in the brochure even though the Respondent applied for MIG-A house under the scheme.

9. The Learned Counsel(s) for the Respondent submitted/argued that the Petitioner issued a letter dated 12.07.2010 demanding the seed money amount from Respondent on being successful in reservation for MIG-A category house at Seniority No. MIGA/G-2/HPS/P-6. The Respondent deposited complete seed money as per the demand of the Petitioner. It was further submitted that after deposition of the seed money by Respondent, Petitioner demanded the income certificate of the Respondent/original complainant and her husband. That after submitting the income certificate of herself and her husband, the Petitioner informed the Respondent through

letter dated 21.10.2011 and 20.03.2012 that the total income of the Respondent's husband is Rs. 3,35,780 and he is eligible for High Income group (HIG) as per board rules. The Petitioner therefore directed the Complainant to submit the challan after depositing the difference amount of Rs. 70,000/- for HIG. It was further submitted that the Respondent deposited Rs. 70,000 on 27.03.2012 and submitted the copy of receipt with the Petitioner. It was further submitted that even after the deposit of the difference amount of Rs. 70,000, the Petitioner did not allot house to the Respondent despite completion of all required formalities and that the allotment was cancelled illegally, which amounts to deficiency in service on the part of the Petitioner. It was further submitted that the Petitioner never intimated the Respondent regarding cancellation of her allotted house and no such letter is produced before District Forum during trial. It was further submitted that the Petitioner converted the category of Respondent as per her income category from MIG to HIG by issuing letters dated 21.10.2011 and 20.03.2012 and raised the demand to deposit the difference amount of Rs. 70,000 from the Respondent. If wrong information and affidavit was furnished by the Complainant regarding her income then the Petitioner could have cancelled the allotment on this ground. But the difference amount of HIG category was demanded from the Petitioner instead of canceling her allotment.

10. The issue for consideration is whether the cancellation of allotment of the said house amounts to deficiency in service on the part of the Petitioner or not. We have examined the pleadings and associated documents placed on record, including the reasoned orders of the District Forum and the State Commission and rendered thoughtful consideration to the arguments advanced by the learned Counsels for the Parties.

11. The Petitioner board issued a letter dated 14.09.2011 demanding the income certificate of the Respondent's husband for the year 2008-09. The Respondent/applicant submitted the income certificate vide letter dated 20.09.2011. The Petitioner, vide its letter dated 21.10.2011 informed the Respondent that the Respondent falls under High Income Group. Therefore, the Respondent is required to deposit the difference amount of Rs. 70,000 for HIG and submit the third copy of challan in this office. The said letter also stated that it will not be possible to allot the house without completing the above objection. The Petitioner sent another letter dated 20.03.2012 reminding the Respondent to submit the difference amount of Rs. 70,000 and submit the third copy of challan in this office by 30.03.2012. The Respondent was also directed to submit the proof/certificate of not having any house registered in the name of her husband in Beawar city. The Respondent, vide letter dated 27.03.2012 informed the Petitioner that he submitted Rs. 70,000 through draft no. 004396 dated 26.03.2012. The Respondent also submitted an affidavit stating that there is no house/plot in her name or her husband's name in any city of state allotted by Rajasthan

Housing Board.

12. The Petitioner did not inform the Respondent regarding the cancellation of the said house allotted to the Respondent. The Respondent/Original Complainant demanded the allotment of the said house through multiple letters but no reply was given by the Petitioner. The respondent submits that she obtained this information via an RTI filed by her. There is no rebuttal of the fact that the said cancellation was never communicated to the Respondent.

13. It is evident that the Petitioner had taken into consideration the income certificate submitted by the Respondent. Further, the Petitioner board itself asked the Respondent to deposit Rs. 1,20,000 as per the schedule provided in the brochure. The Respondent had deposited Rs. 50,000 initially. The Petitioner further asked the Respondent to deposit the difference amount of Rs. 70,000 as per the Higher Income Group so that after the deposit of the said additional amount, the house can be allotted to the Respondent. The Respondent complied with the same after the demand was raised. As far as the veracity of the affidavits regarding income submitted by the Respondent are concerned, it was not investigated. The Respondent was never questioned about the discrepancies of the affidavits submitted, as per the available records. Further, the ground of cancellation as shown in the internal note-sheet of the Petitioner Board says that Rs.70,000/- should have been deposited in the year 2009. We fail to understand as to how was this possible when the demand itself was raised in the year 2011? The subsequent demand by the Petitioner Board of the additional amount clearly establishes the fact that adequate due diligence was done by the Petitioner Board while changing the house category. Subsequent reversal of the earlier decision, leading to cancellation of allotment is unjust, unreasonable and unfair.

14. In view of the above, we are of the considered view that the above said cancellation of the allotment of the said house is a deficiency in service on the part of the Petitioner as the Petitioner had already issued an allotment letter to the Respondent and demanded an additional/difference amount to be deposited corresponding to the requirement for the HIG category. Therefore, the order of the learned State Commission, Rajasthan is upheld as we find no illegality or irregularity in the impugned order.

15. With the above order, the instant Revision Petition No. 733 of 2018 stands disposed of accordingly.

16. All pending Applications, if any, stand disposed of accordingly.