

(2012) 02 P&H CK 0060

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Writ Petition No. 15410 of 1992 (O and M)

Manohar Lal Jain

APPELLANT

Vs

Haryana Urban Development
Authority and othersRESPONDENT

Date of Decision: Feb. 17, 2012**Citation:** (2012) 166 PLR 58**Hon'ble Judges:** Hemant Gupta, J; A.N. Jindal, J**Bench:** Division Bench

Judgement

Hemant Gupta, J.

Challenge in the present writ petition is to the order dated 09.07.1991 (Annexure P-7), whereby the petitioner was communicated that for the failure to deposit the amount within specified period, the provisional allotment letter stands cancelled and the order dated 29.10.1992 (Annexure P-8), whereby appeal against the said order was dismissed.

2. The petitioner was allotted Industrial Plot No. 24 measuring 1000 Sq. meters in Phase-II, Panchkula on 28.05.1990. Before allotment, the petitioner had deposited 10% of the tentative price. In terms of the letter of allotment, a sum of Rs. 108367.50 was payable towards 25% of the cost of the plot. Balance 75% was payable in six equal annual installments with interest at the rate of 10% per annum. Apart from the said fact, the petitioner was also required to comply with the following conditions:-

(i) Please get the drawings of your unit prepared from the Architect registered with HUDA and submit the same to the Estate Officer, HUDA, Panchkula. Copy of the zoning plan/regulations may be obtained from the C.T., HUDA.

(ii) Simultaneously, please get the loan required to meet the cost of land, building and machinery sanctioned from the Haryana Financial Corporation/schedule bank or any other financial institution.

(iii) Please get the unit registered with the General Manager of the District Industries Centre concerned in the case of small scale unit or in the case of the large or medium scale unit, you should get Director General Technical Development, Government of India registration or letter of intent (in case of NRI's/POIO the SSI Registration can be done at IAG office, Directorate of Industries 30 Bays Building, Sector 17, Chandigarh.

(iv) You may apply to Haryana State Electricity Board for release of an electric connection to the proposed unit.

(v) You may supply to this office a list of plant and machinery to be installed in the unit for scrutiny. Orders for supply of at least 50% of the machinery should be placed.

(vi) It is also made clear that this letter will not give you any legal right for allotment unless the final allotment letter is issued.

3. In terms of the said allotment letter, the petitioner deposited a sum of Rs. 20,000/- on 27.06.1990. Another sum of Rs. 90,000/- is said to have deposited on 23.07.1990. On 23.08.1990, the petitioner sought possession of the plot. On 25.10.1990, symbolic possession of the plot was delivered to the petitioner by Junior Engineer of the Haryana Urban Development Authority. On 08.11.1990, permission was granted to the petitioner for erection of a building on the plot allotted, subject to the condition mentioned therein. The petitioner also got registered with the Directorate of Industries on 20.11.1990.

4. It was on 23.11.1990, the petitioner sought physical possession of the plot to start construction. In response to the said communication, it was found that the petitioner has not deposited the amount of Rs. 108367.50 within 30 days from the issue of provisional letter of allotment. Consequently, provisional letter of allotment was cancelled.

5. In the written statement filed, it is inter alia, asserted that the petitioner has failed to comply with the basic condition of depositing amount of 25%. It is also pointed out that the petitioner has failed to submit the list of plant and machinery and orders for supply of at least 50% of the machinery, which is also other condition mentioned in the said letter. It is also mentioned that as per conditions of provisional allotment letter, the petitioner has no right for issuance of letter of allotment unless the conditions specified in the provisional letter of allotment are satisfied.

6. Learned counsel for the petitioner relies upon a judgment delivered by Division Bench of this Court in Smt. Sandhya Jindal Vs. The State of Haryana and others, 1996 (3) PLR 614, to contend that opportunity of hearing should have been provided to the petitioner, as symbolic possession of the plot was handed over to the petitioner. Therefore, the later judgment of the Hon"ble Supreme Court in [Chaman Lal Singhal](#)

[Vs. Haryana Urban Development Authority and Others,](#) is not applicable to the facts of the present case.

7. We have heard learned counsel for the parties at length, but find that the petitioner has failed to comply with the conditions of the provisional letter of allotment. Therefore, there is no illegality in the order of cancellation of provisional letter of allotment. The amount of Rs. 108367.50 has not been deposited within 30 days in terms of the provisional letter of allotment. Apart from the said condition, the petitioner was to satisfy numerous other conditions as reproduced above. The petitioner had deposited the said amount after the expiry of one month. Thus, the offer of the respondents in the provisional letter of allotment was not accepted.

8. Though the petitioner is said to have complied with condition Nos. 1, 3 and 4, but the condition that the petitioner was to supply the list of plant and machinery to be installed in the unit for scrutiny, was also not complied with. The petitioner has also not submitted any plan of raising finances for construction of the building and running of the industry. We find that in view of non-compliance of the essential conditions of provisional allotment letter, there is no illegality in the order of cancellation of the provisional letter of allotment.

9. Dismissed.

10. At this stage, learned counsel for the petitioner has pointed out that if the petitioner has failed to comply with the terms of the provisional letter of allotment, the respondents have no right to retain the amount of Rs. 1,10,000/- which was deposited by the petitioner in the year 1990.

11. We find that the said contention of the petitioner is meritorious. Therefore, we direct the respondents to refund the said amount along with interest at the rate of 10% in terms of the judgment of Hon"ble Supreme Court in case AIR 2002 SC 2380 the rate of interest charged by the HUDA in the cases of payment of the amount to it. Such direction is subject to the determination of the rate of interest, which can be charged, pending consideration before this Court in LPA No. 131 of 2010. Necessary refund be made within two months.