

Manmohan Singh and ors. Vs. the Chairman, Delhi Development Authority and ors.

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Court : Delhi

Decided On : Feb-01-1992

Reported in : 1992(22)DRJ566

Judge : C.M. Nayar, J.

Acts : Delhi Development Act - Sections 44 and 57

Appeal No. : Civil Writ Appeal No. 1578 of 1982

Appellant : Manmohan Singh and ors.

Respondent : The Chairman, Delhi Development Authority and ors.

Advocate for Pet/Ap. : Mukul Rohatagi,; Maninder Kaur and; M. Chopra, Advs

Judgement :

C.M. Nayar, J.

(1) The present petition is directed against the respondents, Delhi Development Authority, hereinafter referred to as the Authority, for issue of a writ, order or direction in the nature of certiorari, calling for the records, including the list of successful candidates, displayed on March 28, 1982, and March 29, 1982, of the M.I.G. flats and to quash the allotments, made on erroneous, illegal and

discriminatory basis and for & writ of mandamus, commanding the Authority to allot M.I.G. flats to the petitioners, in terms of the published M.I.G. scheme, i.e. 1976 Brochure (annexure A to the petition).

(2) The respondent Authority, in exercise of the powers conferred by Section 57 of the Delhi Development Act, made Regulations in 1968 called the Delhi Development Authority (Management and Disposal of Housing Estates) Regulations, 1968, which came into force immediately on the date of the publication in the official gazette. The relevant Regulations are specified hereunder:

'ADMINISTRATION OF Regulations And Delegation Of POWERS. 3. These regulations shall be administered by the Vice-Chairman , subject to general guidance and resolutions of the Authority, who may delegate his powers to any officer of the Authority.

Eligibility of Allotment 7. A dwelling unit or flat in the Housing Estates of the Authority shall be allotted only to such persons who or his wife/her husband or any of his/her dependent relations including unmarried children does not own in full or in part on free-hold or lease-hold basis a residential plot or house in the Urban area of Delhi, New Delhi and Delhi Cantonment.

Procedure for Disposal Of Property Issue Of Public NOTICE; 21. The Vice Chairman or the officer authorised by him in this behalf shall cause a public notice to be issued, in the manner prescribed under Section 44 of the Act, inviting applications for the allotment of property.

Constitution of Property Allotment Committee 26. The authority shall for the purpose of allotment of property under Regulations constitute a committee to be called the Property Allotment Committee (hereinafter called 'the Committee') consisting of not more than 5 persons including the Vice-Chairman who shall be the Presiding Officer of the Committee;

Draw of LOTS; 28. The allotment of property to the eligible applicants shall be made by draw of lots under the supervision of the Committee. Where the number

of eligible applicants exceed the number of properties, lots shall be drawn to the extent of the number of properties plus 25 per cent thereof to serve as a waiting list.

Allotment from Waiting LIST; 32 In the event of 'a person or persons not accepting an offer of allotment, the property shall be allotted to the person or persons on the waiting list in the order specified in such list.'

(3) The Authority, in pursuance to the provisions of the Act and the Regulations, sometime in the year 1976, announced a scheme called 'New Scheme for Registration (1976) of Intending Purchasers of flats/houses to be constructed by the Delhi Development Authority'. It was stated in the Brochure, issued by the respondents, that the scheme had been formulated, keeping in view the 20 point economic programme, announced by the Prime Minister and its basic objective was to increase the housing stock in Delhi, particularly for the weaker sections. The income limit of the eligible M.I.G. applicants, the category to which the petitioners belong, was required to be in the range of Rs.12,001.00 to Rs.24,000.00 per annum. The petitioners having qualified under the scheme, registered themselves with the Authority as M.I.G. allottees. The relevant Regulation intending purchasers, may be reproduced as follows:

'1.The name of the scheme will be New Housing Registration Scheme (1976) of the Delhi Development Authority. It has been formulated, keeping in view the 20-point economic programme announced by the Prime Minister and its basic objective is to increase the housing stock in Delhi, particularly for the weaker sections.

2.The registration under the scheme, as already announced in the press advertisements issued by the Delhi Development Authority, will be opened from the 27th January 1976, and will close on the 31st Mah, 1976. The Delhi Development Authority reserves the right to extend the closing date.....

17.The houses/flats for allotment are being constructed in various residential schemes of the Delhi Development Authority. As and when a group of houses is ready for disposal, an advertisement will be made in the press. Only registered

persons would be permitted to apply in the prescribed form, quoting the number of their Registration Certificates and Deposit Receipts. No earnest money would be payable with that application.

18.The Delhi Development Authority has set apart houses of different categories for those who got themselves registered under its First and Second Registration Schemes and have not so far secured allotment. These houses are under construction in colonies like Janakpuri, Lawrence Road, Munirka, Madipur, Rajouri Garden, Katwaria Sarai, Shaikh Sarai and the like.

19.Under the New Special Housing Registration Scheme, houses will also be constructed by the Delhi Development Authority in all directions South Delhi, North Delhi, West Delhi and East Delhi.

20.While making allotment under the New Scheme first preference will be given to those who are willing to obtain these houses by making payment in full; the second preference will be given to those who pay 75 per cent of the cost at the time of allotment and the remaining 25 per cent in equated monthly Installments of 5 years; the third preference will be given to those who pay 50 per cent of the cost at the time of allotment and the remaining 50 per cent in equated monthly Installments in 7 years and the fourth preference will be given to those who pay 33 per cent of the cost at the time of allotment and the remaining an amount in equated monthly Installments in 10 years.

21.Actual allocation of flats, within each preference, will be determined by draw of lots.

22.For Scheduled Castes and Scheduled Tribes, the above referred preferences will be exercised within the Scheduled Castes/Scheduled Tribe applicants.

N.B.PLEASE note that there is a change in the income qualification as well as in the mode of payment under this Scheme from the first and second Registration Schemes. Those who have registered under the First and Second Registration Schemes and have not yet been allotted flat/house by the Dda will have the option to retain registration under the old schemes or to obtain fresh registration in the

new Scheme. If they exercise option for the New Scheme, they will have to surrender their claim for making application under the old Schemes and will have to make deposits in accordance with the new Scheme. The deposits previously made by them, under the First and Second Registration Schemes, can be adjusted against the registration amount required to be deposited under the New Scheme.

25. The above terms and conditions will be followed generally but the D.D.A. reserves its right to alter any of them in its discretion if and when considered necessary. The altered terms, if any will supersede these terms and conditions.'

(4) The petitioners have further averred in the writ petition that in fact a clear and definite representation was made to them that, sooner or later, all the applicants would get flats. The 1976 Brochure provided that, as and when, a group of flats is ready for allotment an advertisement will be made in the press. Every time the released flats were advertised, the petitioners applied for allotment, but due to illegal change in the system and method of allotment, from draw of lots, as declared and stipulated by rules to preference on the basis of date of registration and due to diversion to other categories of flats, constructed for the petitioners and also due to excessive reservation, the petitioners were not allotted flats, to which they were entitled. This is one of the main grievances of the petitioners. The Authority thereafter issued another Brochure in the year 1981, where certain changes were made from the 1976 Brochure. The first change is incorporated in Regulation 2, which dealt with mode of disposal and payment and the same may be reproduced as follows:

'2. MODE of Disposal & Payment: 50% of the flats will be disposed of on cash-down basis and 50% on hire purchase basis on the terms and conditions contained in the Delhi Development Authority (Management & Disposal of the Housing Estates) Regulations, 1968. Particulars of the flats viz., total cost and mode of payment etc., are available in Annexures 'A' & 'B' of this Brochure.

THE cost of the flats mentioned in Annexure 'A' & 'B' is tentative and is subject to revision.

IN case, the number of applications for allotment of flats to be allotted on cash down basis is less than the number of such flats, the surplus flats will be offered to the applicants on hire purchase basis and vice versa. In case of allotment on hire purchase basis, the successful applicants will have to pay 50% of the cost of flat (including the amount paid as registration deposit) within one month from the date of issue of allotment-cum-demand letter and the balance 50% of the cost of flat in equal monthly Installments with usual interest spread over a period of 7 years.

IN case of allotment on cash down basis, the allottee will have to pay the total cost of the flats (including the amount paid as registration deposit) within two months from the date of issue of the allotment-cum-demand letter.

THE demand letters, indicating dates up to which the payments will be required to be made as per above schedule, will be issued. It will be obligatory on the part of the allottees to make the payments before the dates indicated therein. In the event of default, the allotment of the flat in the Scheme will be liable to be cancelled. No extension beyond four months will be given under any circumstances. The extension beyond the due date of payment will be given on payment of interest for the first month @ 18% per annum the second and third month @ 24% per annum and for the fourth month @ 36% per annum. The allotment of the flat will be liable to be cancelled without making any further reference to the applicant if the payment is not received within the extended period.

(5) The second change related to the change from draw of lots, which is incorporated in Regulation 3 and the same reads as under:

'3.DRAW of lots: If the number of applicants is more than the total number of flats available in a particular scheme, the persons in order of their seniority will be picked up on the basis of the date of payment made through challans or date of encashment of the bank draft. The allotment will be by a system of lots drawn before a panel of judges appointed by the Vice-Chairman, DDA.'

(6) The petitioners felt aggrieved by the revised Brochure of 1981 and realised that they stood no chance of getting the flats in South Delhi area, for which they had given the preference, filed writ petition before this Court. Rule was issued on May

27, 1982, and an interim order was made to keep 34 flats in the South Delhi area as unallotted. Subsequently, 24 petitioners out of 34, who were allotted flats in the other areas, the draw held during the pendency of this writ petition, were content with the relief they got and asked their names to be struck off from the array of the petitioners. The said order was passed on March 18, 1983. The remaining 10 petitioners continued to agitate and claimed (hat they were entitled to flats, in any of the South Delhi areas, as according to their preference the Authority has no legal right to deprive them of the same. The Authority has reserved 10 flats in South Delhi areas, in terms of the order of this Court dated August 25, 1983, which reads as follows:-

'C.M.NO.2511/83 This Court had earlier directed that ten Mig flats should be reserved for ten persons who now remain as the petitioners. The respondents say that they have already done so. This application is moved for getting the particulars of the said flats. As the counsel for the Dda states that the requisite number of flats have already been reserved for the petitioners, I do not find any substance in this application and the same is dismissed.'

(7) The first contention, which is sought to be made on behalf of the petitioners is that they had applied for registration under the 1976 Brochure and the respondent Authority has no legal right to change the pattern of allotment by a subsequent Brochure of 1981, such as, no reservation could be made for cash-down basis and the draw of lots had to be on the earlier basis, under Regulation 21 of 1976 Scheme. There cannot be subsequent change in 1981 to say that the persons in order of their seniority will be picked up on the basis of the date of payment, made through challans or date of encashment of the bank draft. These changes, according to them, are illegal, arbitrary and cannot be sustained.

(8) The second contention raised by counsel for petitioners is that the respondent Authority is estopped to change the terms and conditions in the year 1981 and they cannot put conditions to the detriment of the rights of the petitioners. The 1976 Brochure invited people for registration as intending purchasers of flats, yet to be constructed, and no subsequent changes can be made in the year 1981, because the terms and conditions cannot be changed to the disadvantage of the

petitioners.

(9) Learned counsel for the petitioners has further argued that the Authority may possess the rights and powers to alter the scheme under clause 25, which has already been reproduced in the preceding paragraph but they cannot change the basic character of the scheme and the said scheme cannot be demolished except in cases of exigencies. Reference is made to the judgment of the Division Bench of this Court in Dda Flats Applicants Association & Others v. Delhi Development Authority Civil Writ Petition No.2285 of 1986 decided on July 10,1987, wherein it has been held that in the stated clause only such alterations can be made,by which the essential feature of the scheme is retained and the purpose for which it was formulated is not defeated. The following passage may be reproduced:

'THE question for consideration is whether under clause 26, the D.D.A. was authorised to abandon the scheme of hire purchase and insist on lumpsum payment.The word 'alter' has been considered in various authorities and it would be sufficient to refer to District Local Board Jalgaon v. Krishna Sakharam Patil & others, : AIR1950 Bom18 , wherein the Division Bench of the Bombay High Court held that word 'alter' means only change, modify or revise but not abolish. It is true that clause 26 does permit alteration but it certainly does not authorise the D.D.A. from completely destroying the scheme. We are of the opinion that under this clause only such alterations can be made by which the essential feature of the scheme is retained and the purpose for which it was formulated is not defeated.As we have already said above, the very purpose of the scheme is contained in clause I of the scheme which is to the effect that the scheme has been formulated to reduce the sale price of the MIG/LIG and Janata flats so as to be within the reach of the common man and to payments the mode has also been made easier. By this alteration the very mode of payments is being altered which means the object of the scheme is being defeated. The applicants are in the lower income group and in the middle income group and also belonging to the Janata class having a maximum income of Rs.4200.00 per year and in these circumstances, it is impossible for this class to pay the amounts in one lumpsum, particularly, when the demand made by the D.D.A.has been substantially raised as compared to the one mentioned in the brochure. The estimated cost of Janata flat as mentioned in

the brochure is RS.8000.00 , the Lig flat is mentioned as Rs.18,000.00 and the Mig flat is mentioned as Rs.42,000.00 . The present demands are Rs.29,760.00 , 63050.00 and Rs.1,38,080.00 respectively. To expect the persons earning below Rs.1500.00 per month to pay such heavy amounts in lumpsum is not possible and the action of the respondent-DDA would only amount to depriving the petitioners from acquiring their flats.'

THE Division Bench further held as follows:

'IN the present case, after the aforesaid two schemes were introduced by the respondents, the petitioner-applicants had registered themselves and had deposited huge amounts as registration charges. therefore, the petitioners had acted to their detriment on the basis of the solemn promise given to them in the brochures issued by the respondents. They have been waiting for their flats for several years and after about 7 years when their turns came to own the flats, they are faced with the letters issued by the D.D.A. which are impossible for them to comply with. Thus the result is that the petitioners are being denied the right to own their flat and suffer consequences. In the circumstances, the respondent is clearly estopped from acting contrary to the promise made to the citizens who have acted on the said promise and the doctrine of promissory estoppel is clearly applicable to the facts of the present case.'

(10) The challenge in the case, however, related to the abandoning of the scheme of allotting flats on hire purchase basis and insisting on cash down payments.

(11) In Union of India and others v. Godfrey Philips India Ltd. : [1986]158ITR574(SC) , the Supreme Court clearly upheld the principles of promissory estoppel, applicable to a valid executive order of the Government except when it would be inequitable to do so. The Government, in the facts of the case, was held bound by promissory estoppel to grant the exemption until its revocation from excise duty to assesseds when such a representation was made within the competence of the Government and the Board.

(12) In P.N.Verma and others v. Union of India and others Air 1985 Delhi 417, the Division Bench of this Court has held that the action of the Dda in refixing the price

of the flats on different criteria is liable to be struck down on ground of doctrine of promissory estoppel and doctrine of arbitrariness. The action of the Dda in revising the estimates, otherwise than on the terms of the original contract, was, therefore, held illegal and liable to be quashed.

(13) Learned counsel for the petitioners has referred me to the provisions of Regulation 28 of Delhi Development Authority (Management and Disposal of Housing Estates) Regulations, 1968, that the allotment of property to eligible applicants shall be made by draw of lots under the supervision of the Committee. Regulation 28 is reproduced as under:

'28. Draw of Lots. The allotment of property to eligible applicants shall be made by draw of lots under the supervision of the committee. Where the number of eligible applicants exceeds the number of properties, lots shall be drawn to the extent of the number of properties available plus 25 per cent thereof to serve as a waiting list.'

(14) He, therefore, contends that in terms of their own Regulations, the Authority could not alter the mode and pattern of draw of lots, by introducing seniority and cash down basis.

(15) Learned counsel for the Dda has contended that the respondent authority possesses powers to alter the mode and pattern of allotment of flats in public interest and these alterations are permissible alterations and are co-related to executive exigencies. The authority, according to her possesses extra-ordinary powers and are entitled to make changes in public interest and the same cannot be challenged in a court of law. No other argument has been advanced on behalf of the respondents. It is an admitted fact that the petitioners were registered under the 1976 scheme and they had opted for allotment of flats in South Delhi. The Division Bench of this Court in Dda Flats Applicants Association & others (supra), has clearly held that the Delhi Development Authority was not authorised to abandon the scheme of hire purchase and insist on lumpsum payment. The relevant clause cited in this regard, which gives power to the Dda, would only relate to such alterations as can be made by which the essential feature of the scheme is retained and the purpose for which it was formulated is not defeated.

(16) The 1976 scheme outlined the purpose and it has been stated in paragraph I that the scheme had been formulated, keeping in view the 20 point economic programme announced by the Prime Minister and its basic objective was to increase the housing stock in Delhi, particularly, for the weaker sections. By altering the very mode of payment, from Hire purchase to cash down basis to the extent of 50 per cent, would certainly amount to changing the basic character of the scheme. The 1976 brochure, however, also indicated the mode of allotment in clause 20 which had already been reproduced in the proceeding paragraph and a reading of the same would indicate that the 1976 brochure also had created certain categories, which were further changed by the 1981 brochure, clearly specifying that 50 per cent of the flats will be disposed of on cash down basis and 50 per cent on hire purchase basis, on the terms and conditions, contained in Delhi Development Authority (Management and Disposal of Housing Estates) Regulations, 1968. It cannot therefore, be said that the basic character of the scheme, as formulated in 1976, was given a go-by and the 1981 Scheme created a new category of people of cash down basis. The cash down basis was also specified in the 1976 Brochure .although the percentage may be marginally different. It is true that the terms and conditions cannot be changed to the disadvantage of the applicants but some discretion is always vested in the Authority to allot the flats, considering the exigencies and public interest, such as of financial constraints etc. The concept of allotment and payment on the basis of hire purchase was, therefore, not abandoned by the subsequent 1981 scheme. There is no infirmity in the mode of allotment by the 1981 Brochure and the petitioners cannot make any grouse in respect of the same.

(17) The second contention is that the Authority has given a go by to the mode of allotment, which was prescribed in Clause 21 of the 'Terms and Conditions' of 1976 scheme by draw of lots. This has been changed by the 1981 Brochure, as is clearly indicated by clause 3, which prescribed that if the number of applicants was more than the total number of flats available in a particular scheme, the persons in order of their seniority would be picked up on the basis of date of payment, made through challans or date of encashment of the bank draft. This would amount to a substantial change in the mode of allotment and the essential feature of the scheme, with regard to draw of lots and the main purpose for which the scheme

was framed would obviously be affected to a great extent. The principles of Promissory Estoppel will step in and the respondent Authority cannot be permitted to alter the terms and conditions, to the detriment of the rights of the petitioners, by a subsequent amendment of the scheme. I will, therefore, hold that the subsequent change in the mode of allocation by draw of lots has operated to the disadvantage of the petitioners and similarly situated persons.

(18) Learned counsel for the petitioners has further contended that 24 out of the 34 petitioners have already been provided flats by allotment in other areas and only 10 remaining petitioners are agitating for allotment in any of the South Delhi area's. It is true that if, only 10 out of the total number of applicants in the 1976 scheme remained to be accommodated in South Delhi areas, they can easily be allotted flats, which have been reserved by an order of this Court. However, this averment is strongly denied in the additional affidavit of the respondent Authority.

(19) The matter was also argued before B.N.Kirpal, J. on January 17, 1989. It may be relevant to refer to the following paragraph of the order, passed by the learned Judge on this date:

'IT appears that the total number of flats in the category of Mig available in South Delhi as per Annexures A & B of the Scheme of 1976 and Annexure 'A' of the Scheme of 1982 was 1402. In order to decide the right of the petitioners to get these 10 flats allotted to them it is necessary to ascertain as to what was the total number of applicants up to 1976 scheme' and how many of them had given the preference for allotment in South Delhi areas. A break up should be given with regard to the allotment of flats in South Delhi areas to different persons up to 1976 scheme. It should be borne in mind that the contention of the petitioners is that there are only the 10 petitioners who remain to be accommodated out of the persons who had applied in 1976 and there are ten flats available. If it appears that only ten out of the total number of applicants in the 1976 Scheme remain to be accommodated, that factor will have to be taken into consideration in deciding the writ petition.'

(20) The additional affidavit, as a consequence, was filed by the respondent Authority on March 7, 1989, wherein strong denial was made by the said Authority

that only 10 applicants, i.e. petitioners remain for whom 10 flats are available in South Delhi. The Authority had clearly stated in the said affidavit that about 474 registrants still remain to be allotted houses under the Mig category General Housing Scheme up to 1976. The contention of counsel for the petitioners that there were only 10 applicants and there were only 10 flats available in South Delhi for allotment, was stated to be incorrect. 75 per cent of the registrants opted for allotment of houses in South Delhi and registrants had given more than one area preference. Reference may be made to the following paragraphs in the said affidavit:

'A computerised statement was prepared in March 1982 of all the left-out registrants who had applied, a total of 4925 applications were received. Out of this, 2832 applicants/registrants applied under the hire purchase basis and 2093 under cash-down basis. Out of these 4925 registrants 1188 persons of the cash down scheme preferred by way of first preference houses in South Delhi and 1489 persons out of 2832 persons under Mig hire-purchase scheme gave first preference for South Delhi.

(21) Total number of persons who have applied in December 1981 for allotment of houses up to 1976 schemes 1st preference in South Delhi

a) Mig Cash down basis	2093	1188	b) Mig hire-purchase basis	2832	1489
				<u>4925</u>	<u>2677</u>

A perusal of second, third fourth preferences of the applicants would also confirm that majority of the registrants had opted for houses in South Delhi.

(22) It is pertinent to state here during the pendency of the present writ petition another draw was held by the Dda in July/August 1982 for all the left-out persons registered under various General Housing Registration Schemes up to 1976 for allotment of residential flats mentioned in Annexure -A to the brochure of 1982. With leave of this Hon'ble Court, the petitioners were given option to apply under the Scheme. Out of the 34 original petitioners, 24 petitioners were allotted houses. The present petitioners had given only their preference for allotment in South Delhi only. On the basis of the merit and the seniority list as per the

computerised list they were not found eligible. The present petitioners were left out. A draw was held in March 1984 and allotments were made in Mayur Vihar and Dilshad Garden. Subsequent to this, another opportunity was granted to the left out registrants up to 1976 scheme for allotment in Rohini (North Delhi) but the present petitioners had not applied. The present petitioners were given option for allotment of houses in Trans Yamuna area but they did not accept the same. Houses were allotted by Dda in March 1983 and specific allotments were made on 9.6.87. up to March 1988 about 17969 houses have been allotted.

(23) It is submitted that large number of houses have been constructed by the respondent in various parts of Delhi, but only limited houses have been constructed in South Delhi as per details given below:

1. Kalkaji (Completed flats) 306 2. Kalkaji (under construction) 861 3. Sheikh Sarai 187 4. Sarai Julana 048 1402 5. Sidharth Extn. 104

The houses constructed for Mig registrants up to 1976 scheme in South Delhi are 1402, the houses constructed in Sidharth Extn. area were not for the Mig registrants up to 1976 but for self-financing Scheme registrants.'

(24) The Authority further reiterated that the petitioners are not at all entitled for allotment of any house in Delhi, much less in South Delhi, because of their own conduct and no fundamental right of the petitioners has been infringed, by not allotting them a flat in South Delhi. They had neither opted for allotment of house in other parts of Delhi nor withdrawn their money.

(25) The above facts are related by the petitioners and a reference is made to a communication dated September 20, 1983, by the Deputy Director to one of the petitioners Shri Mripendra Sahai, and the relevant portion may be specified as follows: 'Before, finally closing down the schemes, it has been decided by the Dda to give three options to those who have not yet got allotment, as indicated below :-

1. Such persons can get their registration converted into Fourth Self Financing Scheme (However, they will be treated en-block junior to those who get themselves registered up to Fourth Self Financing Scheme).

2. Such persons accept allotment of a flat in the category they are registered in the locality to be given by Dda, subject to their eligibility.

3. Such persons seek refund of their registration money.

YOU are requested kindly to give you option to the enclosed form in three weeks time from the date of issue of this letter at the Special Counter located on ground floor of Vikas Minar. In case, no such option is received, then it would be presumed that you are not interested in the first two alternatives and your registration will stand cancelled and registration deposit along with interest will become refundable and will finally be refunded on your furnishing the Fdr, copy of Challan etc. Those to prefer to get their registration converted into Fourth Self Financing Scheme should immediately contact the Dy. Director/Asstl. Director (G) Housing, on second floor, Vikas Minar, with their original documents for completing the formalities.'

(26) The counsel for petitioners has contended that in any case, even if there are other people, who were eligible along with the petitioners, they have forfeited their right of allotment and no-one can have a valid claim as the same will be barred by the principles of laches. The petitioners shall be entitled to the allotment in South Delhi areas, in view of the pendency of this writ petition. The others, if any, whose allotments have been cancelled have no legal right and their claims are obviously forfeited in view of the communication dated September 20, 1983, referred above.

(27) Learned counsel for the respondent Authority has then sought to argue that there are no Mig flats, available in South Delhi areas, and the only flats, which are available, are of self financing Scheme. This averment has no basis and cannot be accepted as the Authority was specifically directed to reserve the flats of Mig category in South Delhi area and the direction is incorporated in the order of this Court dated May 27, 1982 and August 25, 1983 respectively.

(28) The question now arises as to what relief the petitioners are entitled. The petitioners were registered as far back as 1976, in the scheme for allotment of Mig flats. They all along insisted that they should be granted allotments in South Delhi areas. However, they have not been successful in the draw of lots and one such

draw was held during the pendency of the writ petition in this court. The Authority did not allot them any flat of Mig category in South Delhi area, as it was contended that the same were not available and the petitioners were not successful in draw of lots. The petitioners have obviously suffered, in view of some changes made in the pattern of the 1976 scheme by a subsequent scheme, as framed in 1981. They, however, are to some extent, responsible for their own problems. They were not allotted Mig flats in South Delhi, they did not choose to convert the same in self financing scheme and they did not exercise the option for allotment of flats in trans-Yamuna area, which were offered to them. There is no denying the fact that there is acute pressure of allotment of flats in South Delhi and the number of people opting for the said area, far exceed the number of flats, built in such areas. The petitioners could not be successful in the draw of lots and they all along insisted that they should be provided flats in South Delhi.

(29) In the facts and circumstances of the case, and taking overall factors into consideration, I hold that the petitioners are eligible and entitled to allotment of Mig flats by the respondent Authority and the said allotment has to be made in accordance with the provisions, as incorporated in 1976 scheme.

(30) The point, which now arises for consideration is, whether, there are sufficient number of flats, to be allotted to the registrants in the 1976 scheme, including the petitioners, who have kept their registration alive and have specifically opted for South Delhi areas. The Authority has already reserved 10 flats in terms of the order of this Court dated August 25, 1983, reproduced above, and if the number of applicants do not exceed the number of the said 10 flats, the petitioners shall be accommodated in these flats, under the 1976 scheme. In case, the number of applicants entitled to allotment under 1976 scheme exceed the number of reserved flats, the respondent shall determine the eligibility on the basis of draw of lots, as envisaged in the 1976 Scheme. However, if the petitioners do not succeed, the allotment in their favor shall be made in other area or areas in terms of their preference within a period of three months.

(31) The writ petition, as a consequence, is allowed in the above terms and the Rule is made absolute. There shall be no order as to costs.

