



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1476 of 2022
Date of filing:	22.06.2022
First date of hearing:	09.08.2022
Date of decision:	05.08.2024

Mangat Ram

S/o Ram Karan

R/o Village Kalal Majra,

PO Palwal, Thanesar,

Kurukshetra, Haryana- 136131

.....COMPLAINANT

Versus

M/s Jagran Developers Pvt. Ltd.

R/o Kurukshetra Global City,

Sector-29, Umri Road,

Kurukshetra-136118, Haryana

.....RESPONDENT

Corporate Office Address- DSM, 648,

6th floor, DLF Tower, Shivaji Marg,

Moti Nagar, New Delhi-110015

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Present: - Adv. Rishu Sharma, proxy counsel for Adv. Vishal Sharma, counsel for complainant
 Adv. Drupad Sangwan, counsel for the respondent.

ORDER (NADIM AKHTAR - MEMBER)

1. Present complaint has been filed on 22.06.2022 by complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made there under, wherein, it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name & location of project scheme	"Kurukshetra Global City", Scheme for EWS Plot in residential colony, Sector 29-30, Kurukshetra, Haryana



2.	RERA registered	registered/not registered	Un- registered
3.	Plot no.		461, Block No. F
4.	Plot area		54.347 sq. mtr.
5.	Date of draw of lots		21.06.2013
6.	EWS Plot Allotment Letter		23.08.2013
7.	Basic Sale Price		₹32,500/-
8.	Amount paid by complainant		₹33,600/-
9.	Offer of possession		04.01.2014

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

1. In the year 2011, respondent, i.e., Jagran Developers Private Limited advertised widely its proposed project namely "Kurukshetra Global City", Scheme for EWS plots in residential colony, Sector 29-30, Kurukshetra, Haryana".
2. That in response to the advertisement complainant applied under the above said project in the scheme for EWS plots in residential colony, Sector 29-30, Kurukshetra, Haryana by submitting an Application Form No. 0000464 along with D.D. No. 533791 dated 21.02.2011 amounting to ₹3,240/- towards application money. Copy of Acknowledgement of Application Form issued to the complainant is annexed as Annexure C-1. Along with Application Form



the complainant had submitted his BPL Card, Domicile Card, and Affidavit as was required by the respondent. Copy of BPL Ration Card is annexed as annexed as Annexure C- 2.

3. That the respondent issued a letter dated 06.07.2013 informing the complainant that the draw of lots for allotment of plots under EWS category was held on 21.06.2013 and he succeeded in the draw of lots for allotment of a plot bearing No.F-461 under EWS category. Copy of letter of draw of plots for EWS Category dated 06.07.2013, is annexed as Annexure C-3. That along with said letter of draw of plots dated 06.07.2013 the respondent had also asked the complainant to furnish an affidavit. Accordingly, complainant submitted the already drafted affidavit provided by the respondent. In the said affidavit dated 17.07.2013, the complainant also submitted *"That I belong to BPL Category and my name is in the list of BPL family vide No. 11 at the time of draw held on 21.06.2013."* Copy of affidavit dated 17.07.2013 is annexed as Annexure C-4.
4. That in the said letter of draw of plots dated 06.07.2013, respondent had also asked the complainant to submit his Original BPL Card in its Kurukshetra Office and the same was also submitted by the complainant to respondent. The Original BPL Card is still with the respondent. Ultimately, the respondent issued a Receipt No.0140 dated 21.06.2013 for an amount of Rs. 3240/- to the



- complainant against plot no. 461, Sector 29, Kurukshetra measuring (Approx.) 65.00 Sq. Yds and allotted Customer ID "KGC00049. Copy of Receipt No. 0140 dated 21.06.2013 is annexed as Annexure C-5.
5. That the respondent issued Allotment Letter dated 23.08.2013 to the complainant for booked plot. Copy of Allotment Letter dated 23.08.2013 is annexed as "Annexure C-6".
 6. That as per Clause No. 11(a) of the Allotment Letter, respondent had to offer possession of the said plot issued within 4 months from the date of allotment and as per Clause No. 12 of the allotment letter, the complainant had to complete construction on the said plot within a period of 3 years from the date of offer for possession by the developer to the allottee.
 7. That the respondent issued Offer of Possession vide offer letter dated 04.01.2014 for the booked plot. Copy of Offer of Possession Letter dated 04.01.2014 is annexed as "Annexure C-10".The complainant paid the final balance amount of Rs. 4855/- and also submitted the required stamp papers along with the additional charges of Rs. 1100/- for the execution of registry as demanded by the respondent towards bank commission, registration fees and other expenses on registration. Copy of final receipt no. 0614 dated 13.02.2014 is annexed as Annexure C-11.



8. That to the utter shock of the Complainant, the respondent issued a letter dated 23.05.2014 stating that "*...please take note that the sale deed/ Conveyance deed in your favour can only be executed after receipt of positive BPL status verification from District Administration, which is still pending at their end.*". Copy of office letter dated 23.05.2014 is annexed as annexed as Annexure C-12.
9. That the complainant visited personally the office of respondent again and again and apprised them about his BPL status and also gave copy of his Ration Card No.176181 for the purpose. That on making inquiry, on 09.12.2014 the complainant represented before the Additional Deputy Commissioner, Kurukshetra, inter-alia, stating that he is holder of ration card No. 176181 which is registered at B.P.L. Serial No. 11. It was cancelled later on, therefore, he wants to get verified the same as the same is required for possession of plot at Jindal Global City which he had applied on 21.02.2011 and at that time his ration card was of B.P.L.
10. That the office of Additional Commissioner, Kurukshetra verified the B.P.L. Status of complainant with the remarks that name of Sh. Mangat Ram son of Sh. Ram Karan resident of Village Kalal Majra, Tehsil Thanesar was registered in the list of BPL survey-2007 at Page No. 13 that was cancelled in February,



2013. Copy of representation dated 09.12.2014 which contains the remarks of office of Additional Commissioner, Kurukshetra is annexed as Annexure C-13.
11. That the Complainant personally handed over to the respondent the copy of above said representation dated 09.12.2014 which contain the remarks of office of Additional Commissioner, Kurukshetra but still the possession of the said plot has not been given by the respondent.
12. That the respondent issued a letter dated 03.11.2015 stating that *"It has been observed that you have deposited the verification of your BPL Card which has been cancelled prior to the date of draw of lots, hence the next step would be based on the clarification received from DTCP Office. Till the time we are returning your Stamp Papers along with the charges of Rs. 1100 -paid by you for the execution of Registry."* Copy of impugned letter dated 03.11.2015 issued by the respondent is annexed as "Annexure C-14".
13. That the action of the respondent in not giving the possession of the said plot to the complainant under the garb of stated condition that successful allottee should be a BPL card holder on the date of the draw of plots is wholly unfair practice and violative under Article 14 of Constitution of India. Thus, the same deserves to be deprecated and quashed and set-aside by the Hon'ble Court.
14. That the complainant applied on 21.02.2011 being a BPL card holder in the project of respondent. The complainant is holder of ration card no.176181



which is registered at B.P.L. serial no. 11 and in the BPL survey-2007 at page no. 13 in the official records of the Government.

15. That the complainant is a successful applicant for allotment of said plot in the draw of plots stated to be held on 21.06.2013 by the respondent. The complainant has already paid complete consideration amount towards the said plot and was also issued EWS plot allotment letter dated 23.08.2013, offer of possession dated 04.01.2014. The complainant had applied on 21.02.2022 alongwith Application Form and his BPL card, domicile card, affidavit etc. as was required by the respondent. No discrepancy was informed by the respondent to the complainant at any earlier point of time. It was only vide letter dated 03.11.2015 for the first time the respondent informed that *"It has been observed that you have deposited the verification of your BPL Card which has been cancelled prior to the date of draw of lots, hence the next step would be based on the clarification received from DTCP Office. Till the time we are returning your Stamp Papers along with the charges of Rs. 1100/- paid by you for the execution of Registry."* Even thereafter, nothing adverse has been found or informed by the respondent about the clarification received from the DTCP Office.
16. That the complainant belongs to the BPL category and in the affidavit dated 17.07.2013 also it has been submitted *"That I belong to BPL Category and my*



name is in the list of BPL family vide No. 11 at the time of draw held on 21.06.2013.” That in case there was any discrepancy that was to be informed by the respondent to the complainant before issuance of final offer of possession letter dated 04.01.2014. No discrepancy was informed by the respondent to him at any earlier point of time. The respondent continued to accept money from the complainant without any intention to deliver the possession of the said plot. The complainant has invested his hard-earned money with the hope of having a plot under the said EWS category but now he is left with nowhere to go except by approaching this Hon'ble Authority. To the knowledge of complainant, many persons who are similarly situated have already been given possession of plot under the said Scheme for EWS plot in residential colony, Sector 29-30, Kurukshetra, Haryana.

17. It is not the case of respondent that at the time of applying for the plot under the EWS category, the complainant was not belonging to the BPL category. The stated condition that successful allottee should be a BPL card holder on the date of the draw of plots is not only illegal but is also faulted on the grounds of unreasonableness, arbitrariness or unfairness and deserves to be declared unconstitutional. The Hon'ble Authority may consider and appreciate that it is the status at the time of applying for plot under EWS category should be seen and should be requirement and not at the time of draw of plots. The



Hon'ble Authority may also consider and appreciate that the respondent will allow a Non-BPL card holder at the time of making application and allow and make eligible such Non-BPL card holder to obtain the status of BPL card holder later on, in order to take the benefit of scheme at the time of draw of plot which obviously is held later on?

18. In the present case also the contractual terms of the allotment are one sided, unfair and unreasonable. The incorporation of such one-sided clauses in an agreement constitutes an unfair trade practice since it adopts unfair methods or practices for the purpose of selling the plot by the builder. The individual purchasers had no scope or power to negotiate and had to accept these one-sided agreements.
19. The respondent has miserably failed to handover the possession of the booked Plot to the complainant and the complainant is now only constrained to approach before this Hon'ble Authority, so that appropriate proceedings must be initiated against the respondent.

C. **RELIEF SOUGHT**

20. In view of the facts mentioned in complaint book, the complainant pray for following:
- i. Call for the record of the case.



- ii. Direct the respondent to give possession of plot as provided in the EWS plot allotment dated 23.08.2013 and offer of possession dated 04.01.2014, i.e,

Plot no. 1461, Block No. F,

Plot Area- 54.347 sq. mtr. (65 sq. yd. approx)

Sector 29-30, Kurukshetra,

- iii. In the alternate, refund of all the payments made by the complainant to the respondent, along with interest @ 24% per annum from the date of payment till its actual realization.
- iv. Award the appropriate cost on account of litigation expense in favour of the complainant and against the respondent.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

21. That the facts of the case are that the Department of Town and Country Planning, Haryana grants licenses to the private colonizers under the provisions of 'Haryana Development and Regulations of Urban Area Act, 1975' for development of residential plotted and group housing colonies. The respondent has also granted license no 288 of 2007 for setting up residential plotted colony approximately 89.725 acres located at Sector-29 & 30, within the revenue estate of Village Urmi and Palwal, Tehsil & District Kurukshetra in the State of Haryana Known as Kurukshetra Global City, Kurukshetra.



22. That in pursuance to the aforesaid colony/township Kurukshetra Global City, Kurukshetra, as per of Policy of the Government of Haryana, Department of Town and Country Planning for allotment of land/flats earmarked for Economical Weaker Section(EWS) in the licenced colonies, the general public was informed by the respondent about the eligibility criteria of EWS plots in Jindal Global City, Sector 29-30, Kurukshetra, Haryana (now known as Kurukshetra Global City, Kurukshetra) and accordingly the scrutiny of applications received in lieu of advertisement dated 26-01-2011 published in newspapers namely; "The Indian Express" (English),"Dainik Bhaskar" (Hindi) and "Punjab Kesari" (Hindi) was made.
23. That the public was invited for submission of application forms for allotment of EWS plots through information brochure. The information brochure contained details of number, size, rate, cost of the plots along with clearly mentioning the schedule of payment for such allotment. The information brochure also clearly mentioned the eligibility criteria and allotment terms. That after call for application for allotment of EWS plots, the complainant submitted application form on 21-02-2011 to the respondent. Meanwhile, in the year 2012 the Government of Haryana through Principal Secretary, Town and Country Planning Department issued fresh policy for allotment of land earmarked for economically weaker sections in the licensed colony which laid



out in detail the procedure to be followed for allotment of EWS plots to various applicants. That the Government of Haryana through Principal Secretary Town and Country Planning Department again issued fresh clarification for allotment of plots to EWS category vide letter dated 07.02.2013 whereby the letter detailed the procedure of verification of genuineness of BPL card from District Administration. The letter clearly highlighted that *"..... it has been decided to do away with this practice with respect to verification of BPL cards. After draw of lots, the successful candidates will be asked to furnish an affidavit to the effect that in case he/ her name does not appear in the BPL list on the date of draw of lot, the allotment of flat will be cancelled and entire amount deposited will be forfeited."*

24. That in line with the above stated updated policies issued by the government of Haryana for allotment of plots to EWS category and in compliances of the order of the Senior Town Planner, Panchkula issued vide memo no 1901 dated 13-05-2013 and 4056 dated 27-05-2013, the draw for 83 number of plots was held on 21-06-2013 at 11:30 AM at the Kurukshetra Global City, Sector 29, Kurukshetra by the "Committee" constituted of Senior Town Planner, Panchkula as Chairman with other members of the committee, for the purpose and thereafter a *"Proceedings of the draw of EWS plots at Jagran Agents Private Limited, Sector 29, Kurukshetra"* was also prepared and signed by



Senior Town Planner, Panchkula, Chairman of the committee and by other committee members. The respondent subsequently sent an information letter dated 06.07.2013 to the complainant informing the complainant regarding his success in the draw of lots for allotment of plot bearing number F461 under EWS category. The letter clearly highlighted that one of the main condition of allotment is that successful allottee shall be a BPL card holder on the date of draw of lots and prior to allotment a successful candidate is required to furnish an affidavit to the effect that in case his name does not figure in the BPL list as on the date of draw of lots the allotment of plot shall be cancelled and entire amount deposited by him shall be forfeited. That after receipt of this information, the complainant accordingly submitted affidavit dated 17.07.2013 clearly stating that the complainant understands the main condition of allotment which is that the complainant shall be a BPL card holder on the date of draw of lots and accordingly the complainant submitted that he belongs to BPL category in the list of BPL family vide number 11 at the time of draw of lots on 21.06.2013.

25. That in line with the policy of allotment of the government of Haryana, the respondent allotted the said plot to the complainant and in order to double check the status of the eligibility of the complainant send information to verify the BPL status of the complainant from the District Administration and allotted



a plot bearing number 461, Block F, measuring 54.34 square meter (herein after referred as the said plot) to the complainant subject to verification of the documents. During the time, the verification was pending before the District Administration, the respondent in a bona fide manner and relied upon the affidavit of the complainant, offered possession of the said plot to the complainant vide offer of possession letter dated 04.01.2014. That subsequently the respondent through letter dated 23.05.2014, conveyed to the complainant that the conveyance deed in favour of the complainant can only be executed after receipt of positive BPL status verification from District Administration which was still pending then at their end. Hence it is crystal clear that after the allotment, the respondent issued offer of possession to the complainant on the basis of affidavit and subject to outcome of verification of his BPL card which was delayed by the complainant himself. Finally vide letter dated 03.11.2015, the respondent conveyed to the complainant that the verification of the BPL card submitted by the complainant had been done and it has been found that the BPL card of the complainant had been cancelled prior to the date of draw of lots hence the stamp papers submitted by the complainant along with charges of Rs.1100/- paid by the complainant for execution of registry were returned to the complainant. A copy of information brochure is attached as Annexure R-2. A copy of application form is attached



as Annexure R-3. Copies of policies governing allotment of EWS plots are annexed as Annexure R-4. A copy of minutes of meetings highlighting successful draw of lots is attached here with as Annexure R-5. A copy of information provided to the complainant regarding success in draw of lot is attached as Annexure R-6. A copy of affidavit provided by the complainant is attached as Annexure R-7. A copy of allotment letter is attached here with as Annexure R-8. Offer of possession letter is attached as Annexure R-9. A copy of letter dated 23.05.2014 is attached as Annexure R-10. A copy of letter dated 03.11.2015 is attached as Annexure R-11.

26. Respondent has further challenged the maintainability of the captioned complaint on the following grounds:

- i. That the instant Complaint is not maintainable as the allotment has been finalized by a committee headed by Senior Town Planner being the Chairman and any issues related to this allotment must be raised before the same committee. The present complaint is also liable to be dismissed for mis-joinder and non-joinder of necessary parties, by not arraying committee members as a necessary party to the present complaint.
- ii. That the captioned complaint is not maintainable as the Real Estate (Regulation and Development) Act, 2016 is prospective in nature. It is to be duly noted that the agreement of the concerned/ disputed property, took



place prior to the coming into force of the said Act. Thus, the provisions contained therein, and the reliefs envisaged cannot be applied to respondent's project and agreements which already commenced prior to coming into force of the said Act. Also, for the same reason, the provisions contained therein and the reliefs envisaged under the said Act, which fully came into force w.e.f. 01.05.2017, cannot be applied to transactions executed (agreement), application, assignment, indemnity etc.) executed prior to the said date which is the date on which the provisions of the said Act came into force. The provisions of the said Act cannot apply retrospectively.

- iii. The respondent completed the project and offered possession to the complainant on 04.01.2014 and hence the project of respondent cannot be said to be covered under the definition of "Ongoing Project" as described by the RERA Act, 2016. The Hon'ble Supreme Court in the case of Newtech Promoters vs Union of India and others clearly defined the cut-off date for consideration of any project to be considered as ongoing project to be the date on which completion certificate was obtained.
- iv. It is reiterated that the complainant has concealed the facts from this Hon'ble Authority that the complainant is a defaulter and has provided false affidavit to illegally get the benefit of allotment in EWS category as



the complainant was not a BPL card holder at the time of draw of lots hence the complaint needs to be dismissed on the ground that the complainant has approached this Hon'ble Authority with unclean hands.

- v. The Complainant has not been able to establish any deficiency in service against the respondent. Therefore, the present complaint is liable to be dismissed in limine for want of cause of action. A bare perusal of the complaint shows that no cause of action arises in favour of the Complainant and against the respondent for the purpose of filing the present complaint. That the instant Complaint is not maintainable keeping in view the facts, circumstances and law relating thereto.
- vi. That the present complaint is time barred. The complainant has filed the present complaint after more than approx. 6 year of issuance of letter dated 03.11.2015 after which stamp papers alongwith the charges of Rs 1100/- paid by the complainant for registration were returned to the complainant. The complainant had never raised any issue and then in year 2020, vide letter dated 12-03-2020 requested the respondent to refund his amount deposited with the complainant. Hence the present complaint is barred by time.
- vii. It is stated that the respondent herein is a highly reputed developer and is known for its top-class construction and best practices and has successfully



built, constructed and delivered a built-up area of approx. 56290 sq. ft., plotted area of approx.1,92,600 sq. yds. It is further stated that the respondent is committed to establish as the leader on the horizon of Indian real estate by developing futuristic townships based on latest concepts in design and built with latest construction technologies and to be the most trusted and preferred name for residential and commercial properties by virtue of its policy of honouring commitments and to make its mark as a renowned developer of new age townships.

- viii. That the present complaint is not maintainable before this Hon'ble Authority as the same is a mere after thought and a tool used to harass the answering opposite party. The complainant is no more allottee as defined under the RERA Act, 2016 and hence cannot raise any dispute before this Hon'ble Court under the RERA Act, 2016.
- ix. That the entire complaint has been drafted based on incorrect interpretation of the allotment letter ignoring the essentials conditions of allotment and as such, no cause of action has arisen in favour of the Complainants to invoke jurisdiction of this Hon'ble Authority.
- x. That the complainant is estopped from their own act and conduct in filing the present complaint. The actions of the complainants of being defaulter by providing false affidavits and violating essential eligibility conditions



are inexplicable and in the light of their own default the complainant is estopped from raising any demand for any relief.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT

27. Mr. Adv. Rishu Sharma, proxy counsel for Adv. Vishal Sharma, counsel for complainant appeared and requested for a short adjournment as main counsel is in some personal difficulty. The proceedings before the Authority are summary proceedings; findings of the Authority are based on documents placed on record; detailed reply duly supported with relevant proof and records has already been listed/ discussed six times and further adjourning the matter will only delay it, Authority deemed appropriate not to grant adjournment and declined the request of ld. complainant counsel for the same.
28. Learned counsel for respondent reiterated the basic facts of the case and stated that the present complaint deserves to be dismissed as the respondent held draw of lots on 21.06.2013 and complainant was not a BPL card Holder at the time of draw of lots. Therefore, the condition prescribed by the Principal Secretary to Govt. Haryana, Town and Country Planning Department, Chandigarh on 07.02.2013 for verification of genuineness of BPL card from District Administration, wherein is clearly stated that the applicants shall be a BPL card holder at the time of draw of lots for a valid allotment and possession of the plot has been violated by the complainant.



F. ISSUES FOR ADJUDICATION

29. Whether complainant was a BPL card holder at the time of draw of lots on 21.06.2013 or not?
30. Whether the complainant is entitled to get possession of booked flat along with delay interest in terms of Section 18 of Act of 2016?
31. Whether the complainant is entitled to refund of amount deposited by him along with interest in terms of Section 18 of RERA Act of 2016?

G. OBSERVATIONS AND DECISION OF THE AUTHORITY

32. The first issue to be adjudicated by the Authority is whether the complainant belonged to the BPL (Below Poverty Line) category at the time of the draw of lots on 21.06.2013?
33. Authority observes that respondent has annexed a letter dated 03.02.2010 at page no. 24 as Annexure R-4 of the reply, issued by the Financial Commissioner and Principal Secretary, to the Government Haryana, Town and Country Planning, Haryana Chandigarh addressed to the Director of Town and Country Planning, Haryana, Chandigarh regarding the allotment of land/flats earmarked for economically weaker section in the licensed colonies. Policy envisages that 50% plots will be allotted by the colonizers and certain eligibility criteria have also been prescribed in the said policy.



34. In accordance with the said policy, the respondent issued an Information Brochure in the year 2011 to applicants, attached at page no. 21 as "Annexure R-2" of the reply. This brochure provided complete details regarding the plot in question and specifically mentioned in the Allotment Terms that "*First preference will be given to the BPL Families listed in the same town followed by listed in the district and then the state.*" Therefore, complainant was fully aware that he needed to belong to the BPL category in order to be eligible for the allotment of the plot in the project.
35. Additionally, another policy regarding the "Allotment of Land/Flats Earmarked for Economically Weaker Sections in Licensed Colonies" was issued by the *Principal Secretary to the Government of Haryana, Town and Country Planning Department, Haryana, Chandigarh*, to the *Director General, Town and Country Planning, Haryana, Chandigarh*, on 14.06.2012. This policy specifically outlined that "*the allotment will be done through draw of lots in the presence of committee consisting of Deputy Commissioner or his representative (at least of the cadre of Haryana Civil Services), Senior Town Planner of the Circle, Representative of Director, Town and Country Planning (DTCP) and Developer/ Colonizer concerned.*"
36. Another letter dated 07.02.2013 was issued by the Principal Secretary to Government Haryana Town and Country Planning Department, Haryana



Chandigarh for Verification of the Genuineness of BPL Card from the District Administration" wherein it is stated that:

"After draw of lots, these successful candidates will be asked to furnish an affidavit to the effect that in case his /her name does not figure in the BPL list on the date of draw of lot, the allotment of flat will be cancelled and entire amount deposited will be forfeited.

In case, where draw of lots for EWS plots/ flats have already taken place and the list is pending with the District Administration for verification of the BP status, the allotment letter may also be issued on the similar lines to successful candidates under intimation to the District Administration."

37. A careful review of the letter dated 07.02.2013 reveals that applicants were required to submit an affidavit affirming their status as BPL (Below Poverty Line) category. The affidavit was to clearly state that their name appeared on the BPL list at the time of the draw of lots on 21.06.2013. It was further stipulated that, if the applicant's name did not appear on the BPL list on the date of the draw, the allotment of the flat would be cancelled, and any amount deposited by the applicant would be forfeited. In line with this directive, the respondent asked the complainant to provide the required affidavit. Resultantly, the complainant submitted an affidavit dated 17.07.2013, in which he affirmed that *"I belong to BPL Category and my name is in list of BPL family vide no. 11 at the time of draw held on 21.06.2013."* This affidavit was submitted as part of the process to verify the complainant's eligibility for the



plot under the Economically Weaker Section (EWS) scheme. By submitting this affidavit, the complainant confirmed his understanding that failure to meet the BPL eligibility criteria would result in the forfeiture of his allotment and amounts paid.

38. Based on the affidavit submitted by the complainant on 17.07.2013, respondent allotted Plot no. 461, Block F, to the complainant vide EWS Allotment letter dated 23.08.2013. Subsequently, possession of the booked plot was also offered to the complainant vide letter dated 04.01.2014.
39. However, despite the offer of possession, there remained a crucial condition regarding the execution of the sale deed (Conveyance Deed). In a letter dated 23.05.2014, the respondent informed the complainant that the execution of the sale deed or conveyance deed could only take place after the receipt of a positive BPL status verification from the District Administration. The letter specifically stated that “.....*please take note that the sale deed/ Conveyance deed in your favour can only be executed after the receipt of positive BPL status verification from District Administration, which is still pending at their end*”. Authority is of the view that this communication highlighted that while the plot had been allotted and possession offered, the formal transfer of ownership through the sale deed was contingent upon the final verification of the complainant’s BPL status.



40. Finally, when respondent came to the knowledge that complainant didn't belong to the category of BPL Holder, then respondent issued another letter dated 03.11.2015 to the complainant stating that "*it has been observed that you have deposited the verification of your BPL card which has been cancelled prior to the date of draw of lots; hence the next step would be based on the clarification received from the DTCP Office*". This letter was significant as it explicitly communicated to the complainant that their BPL card verification, which was a crucial element for their eligibility in the EWS scheme, had been invalidated prior to the draw of lots held on 21.06.2013. As a result, the respondent concluded that the complainant did not meet the necessary criteria to qualify as a BPL holder at that time. This determination effectively rendered the complainant ineligible for the allotment of the plot.
41. On the other hand, the complainant has consistently asserted in his pleadings that he was a BPL holder at the time of the draw of lots. However, within his complaint, he has attached a letter dated 19.12.2014 with endorsement from the Additional Deputy Commissioner of Kurukshetra. In this letter, it is stated that "*it is informed that name of Sh. Mangat Ram s/o Sh. Ram Karan r/o Village Kalal Majra, Teh Thanesar was registered in the list of BPL Survey-2007 at Sr. No. 13 Page no. 300 that was cancelled in February, 2013.*" It establishes that the complainant's BPL status was invalidated prior to the draw



of lots conducted by the respondent on 21.06.2013. The cancellation of the BPL status in February 2013 means that the complainant was not eligible as a BPL card holder at the time of the draw, directly contradicting his claims. Despite his assertion of eligibility, the official documentation provided in the letter explicitly states that he was no longer listed as a BPL holder at the time when the draw took place. This discrepancy undermines the complainant's position and raises questions about the validity of his claim regarding his eligibility for the plot allotment. Furthermore, the fact that the complainant has attached this letter as part of his complaint indicates an awareness of the official status of his BPL registration, which further complicates his assertion that he met the criteria for allotment. Therefore, it is concluded that the complainant was not a BPL holder at the time of the draw of lots. The evidence presented, including the letter from the Additional Deputy Commissioner of Kurukshetra, clearly indicates that the complainant's name was removed from the BPL list in February 2013, well before the date of draw held on 21.06.2013. This cancellation directly contradicts the complainant's claims of eligibility under the Economically Weaker Section (EWS) scheme, which is specifically designed to benefit individuals and families classified as BPL. As a result, the allotment granted to the complainant is rendered null and void in the eyes of the law. If the allotment is cancelled, any request for possession



made by the complainant is automatically rendered invalid. Since the allotment was based on the complainant's eligibility as a BPL holder, cancelling the allotment means there is no basis for granting possession of the plot. Consequently, the complainant's claim for possession loses its legal standing.

42. Lastly, with regard to the claim of complainant that the amount paid by the complainant be refunded to him. With regard to this Authority has placed its reliance on letter dated 07.02.2013, wherein it is was clearly mentioned that, *"After draw of lots, these successful candidates will be asked to furnish an affidavit to the effect that in case his /her name does not figure in the BPL list on the date of draw of lot, the allotment of flat will be cancelled and entire amount deposited will be forfeited."* and letter dated 06.07.2013, wherein it was mentioned *"that according to the guidelines, prior to allotment, a successful candidate is required to furnish an affidavit to the effect that in case his name does not figure in the BPL list as on the date of draw of lots the allotment of plot shall be cancelled and entire amount deposited by him shall be forfeited."* Further, complainant has also annexed a letter dated 06.07.2013 in his complaint book which again serves as evidence that he was fully aware of the implications should his name not appear on the BPL list at the time of the draw of lots. This acknowledgment indicates that he understood the terms



and conditions of the allotment process, including the potential forfeiture of his deposit if he failed to meet the eligibility criteria.

43. Authority is of the view that the complainant was aware of the stipulations regarding the forfeiture of the deposit due to the cancellation of his BPL status. Therefore, the request for a refund of the money paid is not justified. The guidelines clearly state that if a candidate fails to maintain their BPL status, the allotment will be cancelled, and their deposit will be forfeited. The letters emphasize the need to meet the eligibility criteria, supporting the respondent's decision to cancel the allotment and the financial consequences for the complainant.
44. Furthermore, the cause of action for the complainant first arose when the respondent vide letter dated 03.11.2015, officially and for the first time communicated regarding the cancellation of the allotted unit. The cancellation was based on the fact that the complainant's name was not on the BPL cardholder list at the time of the draw of lots. This letter marked the initial moment when the complainant was formally notified of their ineligibility and the resulting cancellation of the plot. However, the present complaint was filed by the complainant on 22.06.2022, indicating a significant delay of nearly 7 years between the respondent's communication and the initiation of legal action. This long delay raises questions about the complainant's diligence in




pursuing their claim. The delay could be viewed as a failure on the complainant's part to act within a reasonable time, as expected in such legal matters. Moreover, due to delay in taking action, respondent may have reasonably assumed that the complainant accepted the cancellation after such a long period without any objection or legal action. This long gap between the cause of action and the complaint filing can lead to dismissal based on the doctrine of laches, which prevents individuals from asserting claims after unreasonably delaying action without just cause. Authority concludes that the lack of timely action by the complainant shows a failure to protect his own interests, and this prolonged delay significantly undermines the credibility and viability of his claim.

45. The complainant is seeking compensation on account of litigation expenses. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & Ors.*" (supra), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the



complaints in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

46. Thus, consequent upon the considerable consideration, the Authority is constrained to conclude that the present complaint is nothing but an ill-advised luxurious litigation and a classic example of litigation to enrich oneself at the cost of another and to waste the precious time of this Authority. The Real Estate (Regulation and Development) Act 2016 is a beneficial/ social legislation enacted by the Parliament to put a check on the malpractices prevailing in the real estate sectors and to address the grievances of the allottees who have suffered due to the dominant position of the promoter.
47. In view of above-mentioned terms, Authority concludes that present complaint filed by the complainant is hereby dismissed for the reasons stated in para 33-46 of this order.
48. **Disposed of.** File be consigned to record room after uploading of the order on the website of the Authority.


.....
CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]