



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	112 of 2024
Date of filing:	05.02.2024
Date of first hearing:	29.04.2024
Date of decision:	04.11.2024

Niblets Food Products Pvt. Ltd.

Corp. Office- B-4, LSC, Samrat Enclave,
Pitampura, Delhi-110034

(Through its Director Shaleen Jain)

....COMPLAINANT

VERSUS

**Haryana State Industrial and Infrastructure Development Corporation Ltd.
(HSIIDC)**

Regd. Office- Plot no.C-13-14, Sector-6,
Panchkula, Haryana-134109

....RESPONDENT

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Present: None present for the complainant

Adv. Tarun Gupta, counsel for the respondent.

ORDER (NADIM AKHTAR –MEMBER)

1. Facts of the instant case are that complainant came to know through e-auction brochure that respondent was organizing e-auction with respect to allotment of Food Processing Units in Rohtak and Barhi and had invited online applications for registration and submission of Earnest Money Deposit (EMD) for participating in the e-auction. Copy of brochure is annexed as Annexure-2 (Colly). On 01.03.2023, complainant registered at HSIIDC auction with unique user ID HSIIDC16124. Copy of confirmation of registration vide email dated 01.03.2023 is annexed as Annexure-3. Subsequently on 02.03.2023, complainant paid an amount of ₹18,37,000/- towards EMD payment for e-auction of Industrial Plot at IE Barhi Phase-III, Mega Food Park admeasuring 1800 sq. mtr. Thereafter, complainant participated in e-auction proceedings and complainant was the highest bidder for a plot at IE Barhi Phase-III, Mega Food Park admeasuring 1800 sq. mtr. The respondent vide email dated 23.03.2023 confirmed as under : “ *You have Booked a plot in HSIIDC E-Auction eAuction of Industrial Plot at IE Barhi Phase-III, Mega Food Park-1800 SQM. Last date for making H1 payment shall be scheduled shortly after conclusion of e-auction. Refer E-Auction website)*”. The said letter is annexed as Annexure-5. Later, on 09.04.2023,



respondent sent an email and informed the complainant that his H1 bid has not been accepted and his EMD shall be refunded shortly, copy of email is annexed as Annexure-6. When complainant came to the know that the bid has not been accepted by the respondent, he made requests for refund of paid amount to respondent vide emails dated 23.05.2023, 29.05.2023, 09.06.2023, 13.06.2023 (Annexure-7) and 22.06.2023 (Annexure-8). Thereafter, complainant sent a legal notice dated 16.10.2023 to the respondent which is annexed as Annexure-9. On 20.11.2023, after 8 months from the date of payment of EMD amount of ₹18,37,000/- refund was received by the complainant. However, said refund does not include interest for the delay in refunding of said amount paid by the complainant. Therefore, complainant is seeking relief of payment of interest of ₹1,58,953/- at the reasonable rate of 10.% p.a. on unjustified delayed payment; ₹1,00,000/- towards damages and cost incurred by the complainant and compensation towards mental agony and harassment.

2. That matter was listed for hearing before the Authority on 29.04.2024, wherein complainant was directed to place on the record documents to prove maintainability of the case as facts of the complaint file fails to establish relationship between complainant and respondent as allottee and builder,



failing which authority will be constrained to dismiss the complaint on the next date of hearing. Respondent was also directed to file reply of the complaint with an advance copy supplied to the complainant. As per office record, no documents have been filed by the complainant till date. Today, no one has put in appearance on behalf of complainant and ld counsel for respondent stated that as complainant fails to prove maintainability of the complainant, therefore, he did not file the reply.

3. Authority observed that the complainant participated in the e-auction conducted by the respondent and complainant deposited the requisite Earnest Money Deposit (EMD) and other fees, for meeting the conditions required to enter the bidding process. However, respondent has not accepted the H1 bid offered by the complainant in e-auction and assured the complainant to refund the EMD paid by the complainant. Complainant claims to have made multiple requests for refund in compliance of which the complainant's EMD payment was refunded by the respondent after a delay of approximately eight months, without any accompanying interest for the delayed payment. Therefore, complainant is seeking reliefs mentioned above from the Authority.
4. Authority is of the view that Haryana Real Estate Regulatory Authority (HRERA), 2016 clearly stipulates that an "allottee" is eligible to seek relief



from the Authority under the RERA Act and rules and regulations framed there under.

5. Perusal of file reveals that complainant has miserably failed to annex the documents which establishes the allottee- builder relations of the complainant and the respondent in his complaint book. Under the Real Estate (Regulation and Development) Act, 2016 (RERA), Section 2(d) of RERA defines an allottee "*as a person to whom the developer has agreed to sell a unit through an agreement for sale, conferring certain rights and protections to the buyer under the Act*". For an individual to qualify as an "allottee" and seek protections and remedies under RERA, they must demonstrate a legal commitment from the developer, such as copy of allotment letter, an executed builder-buyer agreement or a similar formal contract that binds both the parties. In the captioned complaint, the complainant has not provided any evidence or document which proves that a formal agreement was executed between complainant and the respondent pre or post-auction. In the absence of such an agreement, there is no legal basis to substantiate that the complainant was formally allotted any plot by the respondent.
6. The initial bid and the payments made do not automatically result in an enforceable contract under RERA. RERA's protections and relief



mechanisms apply specifically to “allottees” who have entered into a legally binding Builder-Buyer Agreement (BBA), which is not in the case here.

7. In addition, merely being the highest bidder in an auction does not automatically make a person an “allottee” under the Real Estate (Regulation and Development) Act, 2016 (RERA). The auction process is simply an invitation for offers, and the highest bid is an offer that the auctioning authority can accept, reject, or further negotiate. The relationship of “allottee” is generally recognized only after a successful bid is formally accepted by the competent authority, and a written contract or agreement (such as an Allotment Letter or Builder-Buyer Agreement) is signed. Until such a formal acceptance and agreement, the highest bidder has only a contingent right to be considered for allotment, not a right to demand it.
8. Furthermore, in the judgment given by the Punjab and Haryana High Court titled as *Ajit Singh vs. State of Haryana* (CWP No. 24762 of 2021) “it is clearly established that *an auction participant, even as the highest bidder, does not acquire an automatic right to allotment unless the bid is explicitly accepted by the authority and formalized through a contractual agreement. This decision established that the competent authority reserves the discretion to accept or reject bids and, if necessary, cancel auctions entirely, especially*



when conditions or policies permit such actions without creating contractual obligations (such as an executed Letter of Intent or Sale Agreement) between the parties involved". The court also emphasized that public auction participants only have the right for their bids to be considered. However, the final decision rests with the authority to accept the bid based on internal evaluations like reserve prices, which may remain confidential. Moreover, in present case as per the terms and conditions of brochure of e-auction, it is mentioned in clause 9(i) that *"HSI IDC shall reserve to itself the right to accept any bid subject to approval of the competent Authority or reject any bid, even the highest bid or withdraw the site from the auction at any stage without assigning any reason."* Meaning thereby that complainant's participation in the auction did not establish a legally binding agreement with the respondent, the authority's cancellation of the H1 bid did not violate any legal obligations under RERA or other laws, making a claim for damages or penalties unsustainable in such cases.

9. Authority is also of the view that respondent's cancellation of H1 bid, in the absence of any allotment or builder buyer agreement with the complainant, is within its legal rights. In real estate transactions governed by RERA, a binding contract typically requires a formal agreement to sell or allot the




property. Until such an agreement is executed and signed by both parties, neither party is legally obligated to fulfill the terms of sale. In captioned complaint, no such agreement was finalized, meaning thereby that respondent retained the right to cancel the H1 bid as per terms and condition of the brochure. This cancellation does not constitute a breach of contract or a violation of RERA provisions because, in the absence of a formal agreement, no enforceable contractual relationship was ever established.

10. Authority is of the view that complainant in his pleadings has acknowledged that the respondent has already refunded the EMD payment of ₹18,37,000/-. This admission is crucial as it means that complainant has already received full refund of the principal amount paid during the auction process. Since the amounts in question has been refunded, now other additional reliefs claimed by the complainant lack a contractual basis as there is no formal allotment, agreement or contract between the complainant and the respondent. Since the complaint is not maintainable before the Authority due to the complainant's lack of status as an "allottee" under RERA, all reliefs sought by the complainant in para 1 of the order are similarly non-maintainable. Therefore, Authority deems appropriate to dismiss all requested reliefs by the complainant.



11. Authority decides to dispose of the captioned **complaint as dismissed** on the ground mentioned above. Hence, the complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.


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CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]