



CWP No. 22531 of 2023 (O&M)

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2025:PHHC:049851-DB

**In the High Court of Punjab and Haryana at Chandigarh****CWP No. 22531 of 2023 (O&M)****Reserved on: 28.2.2025****Date of Decision: 09.4.2025**

Dinesh Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI*****Argued by:*** Mr. Manjeet Singh, Advocate with
Mr. Suresh Nain, Advocate
for the petitioner.Mr. Ankur Mittal, Addl. A.G., Haryana,
Ms. Svaneel Jaswal, Addl. A.G. Haryana,
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.
Mr. Saurabh Mago, DAG, Haryana,
Mr. Gaurav Bansal, DAG, Haryana and
Mr. Karan Jindal, AAG, Haryana
for the respondent-State.Mr. Ankur Mittal, Advocate,
Ms. Kushaldeep Kaur, Advocate and
Ms. Saanvi Singla, Advocate
for the respondent-HSVP.Mr. Aman Pal, Advocate and
Mr. Rajeev Sharma, Advocate
for respondents No. 3 and 4.Mr. Jayant Puneet Bamal, Advocate for
Mr. Harmanjit Singh Gill, Advocate
for respondent No. 3.Mr. R.K.Malik, Senior Advocate with
Mr. Varun Veer Chauhan, Advocate
for respondents No. 6 and 71.

SURESHWAR THAKUR, J.

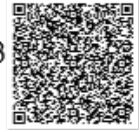
1. Through the instant writ petition, the petitioner seeks the



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quashing of the decision dated 14.9.2021 (Annexure P-20), taken in the meeting, whereby respondent No. 2 allocated the membership of Super Deluxe category flat to respondent No. 3 who is the Managing Director of respondent No. 2, on preferential basis. Furthermore, the petitioner also seeks the quashing of the impugned letter dated 15.5.2023 (Annexure P-27), whereby the membership of Super Deluxe category flat became allocated to respondent No. 4. In addition, the petitioner also seeks the quashing of the decision dated 25.7.2023 (Annexure P-32) taken by respondent No. 2 in its meeting, thereby regularizing the purported illegal allocation of membership of Super Deluxe category flat to respondent No. 4.

Brief facts of the case

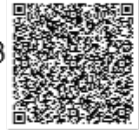
2. It is averred in the instant petition that vide letter dated 9.2.2005 (Annexure P-2), respondent No. 2-HUDA, Urban Estate and Town and Country Planning, Scheme-II, Faridabad, Employees Welfare Organization (for short '*HEWO*'), decided to enroll new members for the second scheme at Sector 21-C, Faridabad, from amongst the employees of HUDA, Urban Estate Department and Town and Country Planning Department. It is averred that on 19.2.2005, when Yashendra Singh (petitioner in CWP-20458-2021) applied for the membership of Deluxe category flat, he was serving as Estate Officer, HUDA, Bhiwani. After the said Yashendra Singh being found eligible for the membership of deluxe category flat, on 6.4.2005, whereby the respondent concerned sought his consent for the allotment of the said category of flat. Yashendra Singh gave his consent vide letter dated 12.4.2005 and on 18.6.2005, he was allotted flat No. B-11203 of deluxe category. When the said Yashendra Singh became posted as Administrator, HUDA, Faridabad, he became ex-officio member of the



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governing body of the respondent-HEWO, and, therefore he made an application for upgrading his category from deluxe to super deluxe category flat based on his present pay structure. In the meeting of the governing body of the respondent-HEWO, held on 10.1.2018, wherein, the said Yashendra Singh participated as a member of the said governing body, it was decided therein that since his membership is eligible for upgradation from deluxe to super deluxe category, based on his present pay structure, therefore, his membership be upgraded on availability of super deluxe category flat during re-planning.

3. It is further averred therein, that the governing body in its meeting held on 16.10.2020 and on 22.10.2020, decided to invite applications for different categories of flats against cancelled membership. Amongst other categories of flats, it was decided to float two memberships qua super deluxe categories of flats. In the previous eligibility conditions, the condition of six months period on deputation was not made applicable to the members of governing body, however, the said preferential treatment was withdrawn under the revised eligibility conditions. Furthermore, in the previous eligibility conditions, the employees, who had earlier served for a period of more than six months, were not held eligible but they were made eligible under the revised eligibility conditions.

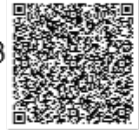
4. Furthermore, it is averred that in the meeting of the governing body convened on 21.1.2021, it was decided that the membership of one deluxe category be allotted to a member of the governing body. Moreover, in the said meeting it was also decided that since the applications of six officers, who are governing body members, were pending for allocation of membership but no decision was taken to allot membership to the said



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members, and, it was decided to invite applications against the cancelled membership amongst eligible employees of HSVP, as per the decisions taken in the meetings held on 16.10.2022 and on 22.10.2022.

5. Subsequently, pursuant to the decision taken in the meeting convened on 16.10.2022 and on 22.10.2022, a public notice was published informing the employees about floating of cancelled membership of flats at Sector 19, 20 and 21, Faridabad. The last date for submission of the applications was 17.5.2021, which was further extended to 18.6.2021. Subsequently, in the meeting of the governing body of the respondent-HEWO, held on 25.5.2021 (Annexure P-11), the matter of allocation of membership to governing body members, was discussed, wherein the governing body, in view of the decision taken in the earlier meetings dated 16.10.2022/22.10.2022, decided to allot membership of one super deluxe category flat to one member of the governing body on preferential basis.

6. It is further averred, that the present petitioner, is an officer from the Prosecution Department, Haryana, was serving with HSVP on the date of advertisement (supra), and, remained posted in HSVP and Urban Estates Department for 14 years, as on the date of the application. Since the petitioner fulfilled all the eligibility conditions, as set out in the letter dated 13.4.2021 (Annexure P-8), therefore, he applied for membership in the category of super deluxe flat vide application dated 18.6.2021 (Annexure P-15).

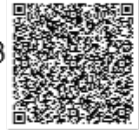
7. Furthermore, it is averred in the instant petition, that one Puran Chand-respondent No. 4, working in the office of the Chief Controller of Finance, HSVP, Panchkula i.e. respondent No. 3, also applied for the membership of super deluxe flat, without mentioning his pay level under



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revised Pay Rules, only because he was drawing salary in Level-7 of the Revised Pay Rules, and, thus was not eligible for the membership of Super Deluxe category flat. Since respondent No. 4 was working in the office of respondent No. 3, who is also the Managing Director of HEWO, therefore, his application became accepted, and, he was considered eligible for allotment of membership of Super Deluxe category flat.

8. It is also averred, that respondent No. 3 joined as Chief Controller of Finance, HSVP-cum-Managing Director, HEWO, Panchkula on 12.8.2021 on deputation, and, has not completed the tenure of six months on deputation with the departments concerned, to become eligible for the membership of HEWO. On 10.9.2021, respondent No. 3 submitted an application for allotment of Super Deluxe category flat to him being a member of the governing body, which was received in HEWO on 13.9.2021. On 14.9.2021, the meeting of the governing body of HEWO was convened, wherein respondent No. 3 himself participated in the capacity of Managing Director, HEWO, wherein a supplementary agenda item No. 1 was put before the governing body of HEWO, and, it was unanimously decided to allocate membership of Super Deluxe category flat to respondent No. 3, despite the fact that he had not even completed the tenure of six months on deputation. Subsequently, respondent No. 2 vide letter dated 28.4.2023, informed the petitioner and respondent No. 4 regarding draw of lots to be held on 2.5.2023 for the allocation of membership.

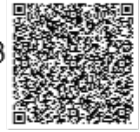
9. It is further averred that the requests made by Yashendra Singh, IAS and Sudhir Singh Chauhan, STP were also considered in the meeting held on 14.9.2021, wherein it was decided that their names be included for the draw of lots for the remaining one flat of the supra category in pursuance



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to the letter dated 13.4.2021, despite the fact that both the above were not the applicants in pursuance to the advertisement published on 13.4.2021.

10. It is also averred that vide the impugned letter dated 15.5.2023 (Annexure P-27), respondent No. 4 was allocated membership No. 11065 of Super Deluxe category flat. On 18.5.2023, the petitioner received a letter dated 16.5.2023 from HEWO regarding refund of the earnest money along with a cheque dated 16.5.2023. Subsequently, the petitioner on coming to know about the ineligibility of respondent No. 4, made representation to respondent No. 2-HEWO on 29.5.2023. The petitioner also returned the cheque along with the said representation. However, in the meeting of the governing body held on 25.7.2023 (Annexure P-32), the said representation was discussed, and, it became decided that in view of the Memorandum of Association and Rules and Regulations of HEWO, the draw held on 2.5.2023 for allocation of Super Deluxe membership be treated as regularized. Subsequently on 25.8.2023, the petitioner received a letter, whereby he was informed that the governing body of HEWO has decided to regularize the allocation of membership of Super Deluxe category flats to respondent No. 4 and again returned the cheque of earnest money to the petitioner alongwith the letter (supra).

Submissions on behalf of the learned counsel for the petitioner

11. The learned counsel for the petitioner submits-

(i) That the impugned decision dated 14.9.2021 (Annexure P-20), rendered by respondent No. 2-HEWO, thereby allocating membership of Super Deluxe category flat to respondent No. 3, besides the impugned letter dated 15.5.2023 (Annexure P-27), allocating membership of Super Deluxe category flats to respondent No. 4, and the impugned decision



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dated 25.7.2023 (Annexure P-32) taken by respondent No. 2-HEWO, whereby became regularized the allocation of the said membership to respondent No. 4, thus are contended to be illegal, arbitrary and unconstitutional, as they are against the advertisement as well as the Memorandum of Organization, as also are against the principles of natural justice.

(ii) That the allotment of membership of Super Deluxe category flat to respondent No. 4 is illegal and arbitrary, as he was not eligible to lay his claim for allotment of the said category flat.

(iii) That the governing body, before publishing the advertisement on 13.4.2021, had already taken a conscious decision to finalize the eligibility criteria by way of letter dated 13.4.2021 (Annexure P-8). However, the respondents concerned, in order to extend benefit to respondent No. 4, have changed the eligibility conditions after the process of allotment had started. Therefore, the allotment of supra category of flat(s) in favour of respondent No. 4, thus is not sustainable, and, is liable to be set aside.

(iv) That the allotment of membership to respondent No. 3, is also illegal and arbitrary, and, has been made only to favour him, despite the fact that he was not even eligible as on 14.9.2021, and, thereby he does not fulfill the eligibility criteria for allotment of membership of Super Deluxe category flats, as he had not completed the tenure of six months on deputation with HSVP.

12. Therefore, it is prayed that the impugned annexures be quashed and set aside.



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**Joint submissions on behalf of the learned State counsel and of the
learned counsel for the HSVP**

13. The learned State counsel as well as the learned counsel for the respondent-HSVP submit-

(i) That the instant petitions filed by the petitioner(s) claiming relief against the respondent society is not maintainable, thus on the ground that the respondent society is not covered within the definition of the 'State' as provided under Article 12 of the Constitution of India. Moreover, the respondent society is a registered society which was formed for the welfare of the employees of HUDA (now HSVP), Urban Estate and Town and Country Planning Department, and, as per the Memorandum of Association and Rules and Regulations, its primary objective is to serve the welfare of its members.

(ii) That the respondent society had floated three schemes till date, commencing from 1990, with the personal contributions of the members, and, that no sort of grant was taken either from the Government or from any of its bodies'.

(iii) That the respondent concerned, has been allocated land in complete alignment with the standard allotment guidelines that, apply uniformly to all the recipient(s), and, no special or preferential treatment has been extended to the respondent society.

(iv) That while acting as the members of the governing body, the officials concerned, were not discharging any public/government duty, rather they were only acting as member(s) thus in the dischargings of their functions in accordance with rules and regulations, but appertaining to the society alone.



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(v) That the HSVP has allotted 18 sites to the respondent concerned on the same pattern whereons the sites became allotted to other group housing societies, and, no special preference has been given to the present society while making allotments.

(vi) That all the members of HEWO governing body, hold their positions ex-officio by virtue of their post/designation in various organization(s), and, the said ex-officio members do not exercise decision making powers as IAS/HCS officers.

Submissions on behalf of the learned counsel for respondents No. 3 and 4

14. The learned counsel for respondents No. 3 and 4 submits-

(i) That the allotment in dispute was done after the issuance of public advertisement, prior whereto the earlier allotment became cancelled but after following the due procedure, and, the said cancellation of allotment never became challenged by the aggrieved concerned.

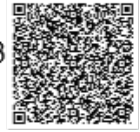
(ii) That the Rules and Regulations for the allocation of membership in respondent No. 2-HEWO, to the members of the governing body, were amended by the governing body vide resolution dated 16.10.2022/22.10.2022 to the effect, that if any membership is available on account of cancellation or surrendering or for any other reason, thereupon preference can be given for allotment of membership to the governing body member(s). Subsequently, in view of the said taken decision, the governing body of HEWO in its meeting held on 22.5.2021, thus decided to allocate one Super Deluxe category flat, to Mr. K. Makrand Panduran, IAS, being a member of the governing body out of two cancelled membership(s) of Super Deluxe category flat. However, Mr. K. Makrand Pandurang, IAS vide his letter dated 8.9.2021 proceeded to withdraw his membership application.



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Thereupon, an application became preferred by respondent No. 3 for enlisting him as a member of the society, and, the governing body of HEWO in its meeting held on 14.9.201, decided that the membership of Super Deluxe category flat, as became withdrawn by Mr. K. Makrand Pandurang, IAS, be allotted to respondent No. 3.

(iii) That the flat allotted to respondent No. 3 was not the part of any advertisement, and, the said allotment to respondent No. 3, was made under the category of governing body member, as per decision dated 16.10.2022/22.10.2022.

(iv) That the allocation of membership of Super Deluxe category flat to respondent No. 4 became made after following the due procedure, as ordained by the governing body of the HEWO, and, the same has been rightly regularized vide decision dated 25.7.2023.

(v) That the petitioner was having an appropriate and efficacious remedy for challenging the impugned resolution before the Registrar of Societies, however, the said remedy has not been availed by the petitioner. Moreover, the said resolution is not challenged by the present petitioner.

Inferences of this Court

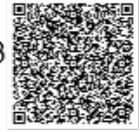
15. Though, the society nomenclatured as HEWO, is a society registered under the Societies Registration Act, 1860, whereby any dispute relating to the subjects embodied in the bye-laws, memorandum of association or in the appositely drawn charter delineating the objects and purposes of the society, but would be resolvable through the remedy of arbitration, as envisaged in the Haryana Registration and Regulation of Societies Act, 2012, thus becoming resorted. Therefore, the remedies



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envisaged therein for resolving the subject disputes were to be resorted by the aggrieved from the subject matter involved in the instant writ petition.

16. However, since public properties are involved in the instant writ petition, thereby even in the exercise of writ jurisdiction, this Court becomes empowered to engage itself in the process of fathoming, whether transparency and the rule of fairness and reasonableness becomes adhered to by the respondent concerned.

17. The instant petition is not a public interest litigation, whereby a challenge is made to the registration of society, whereby to the members of the said society, the subject lands become allocated by the HSVP. The relevant allotments become contemplated to be made in terms of the relevant memorandum of organization (Annexure P-1), whereby a privilege becomes conferred upon the members of the society, to seek allotment of the plots registered in the name of the society. Resultantly, this Court is not required to be either adjudging the purpose of the registration of the society, nor is required to be adjudging whether any public property which otherwise is required to be distributed to all concerned, rather even those who are not the members of the society, thus has been purportedly distributed in an unreasonable and unfair manner.

18. In the instant case, the petitioner has challenged the decision dated 14.9.2021 (Annexure P-20), as made in the meeting of the governing body of the respondent concerned, whereby the membership of Super Deluxe Category flat became allocated to respondent No. 3. The said decision becomes extracted hereinafter.

“Suppl Agenda Item No. 1

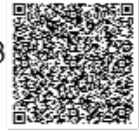
Request from the officers of HUDA, Urban Estate and Town



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and Country Planning Department of membership and allotment of flat of HEWO-enrolment of new members.

The matter regarding allocation of membership to the Governing Body members was discussed that as per decision of main agenda No. 1 Super Deluxe flat become available in this scheme. Therefore, it was observed that Sh. B.B.Gupta, Chief Controller of Finance, HSVP-cum-Managing Director, HEWO, Panchkula is eligible for Super Deluxe category flat being a Governing Body member. It was unanimously decided that membership of Super Deluxe category flat withdrawn by Sh. K. Makran Pandurang, IAS, DTCP-SSTCP may be allocated to Sh. B.B.Gupta, CCF, HSVP-cum-M.D.HEWO, Panchkula in HEWO Scheme-II, Faridabad.”

19. Furthermore, the petitioner has also challenged the letter dated 15.5.2023 (Annexure P-27), whereby membership of the super deluxe category flat has been allocated to respondent No. 4, despite the fact that he does not fulfill the eligibility conditions for membership of a super deluxe category flat.

20. Since it is amply clear from the minutes of meeting dated 14.9.2021 (Annexure P-20) that on requests becoming made by the officers of HUDA, to thus declare them, to be eligible members for the allotment of flats of HEWO, that the said requests were accepted. Moreover, the said created eligibility was only in respect of the surrendered and cancelled plots. As such, when therebys it was known to all, that only upon withdrawal/surrendering of membership of the super deluxe category flat, by one Mr. Makrand Pandurang, IAS, therebys the same becoming decided to be allocated to respondent No. 3. Moreover, since respondent No. 4 was allocated membership No. 11065 of Super Deluxe category flat of HEWO Scheme-II, through the impugned letter dated 15.5.2023. Therefore, the said



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condition enjoys an aura of transparency, whereby pursuant to the relevant cancellation and surrender of membership being made by Mr. Makrand Pandurang, IAS, the said flat became aptly allotted to respondent No. 3.

21. Moreover also, when the present petitioner also unsuccessfully participated in the draw of lots, whereby he becomes estopped to contend that there was any illegality in the passing of the minutes (supra) in the meeting held on 14.9.2021, whereby vis-a-vis the surrendered/withdrawal membership of Mr. Makrand Pandurang, IAS, thus an apt decision was taken to allot the same to the other eligible person.

Final order

22. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is hereby dismissed. The impugned annexures are maintained and affirmed.

23. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

April 9th, 2025
Gurpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No