



Dr. Monika Gusain, Advocate on Record, for the State of Haryana with Shri Ravi Sinha, STP Faridabad and Ms. Renuka Chauhan DTP (P) Faridabad  
Mr. Vijay Sharma for fifty applicants

**PROCEDURAL ORDER NO. 29  
DATED 4<sup>th</sup> AUGUST 2020**

1. With the consent of the Parties, the sitting was convened on Cisco Webex Meet Platform, arranged by the Special Committee.
2. The State of Haryana has filed Submissions dated 29-07-2020 along with enclosures vide email dated 29-07-2020, less than 24 hours before the scheduled hearing for 30-07-2020 which had therefore to be rescheduled to give an opportunity to all concerned to peruse and assess the submissions made by the State of Haryana.
3. Mr. Sajan Narain, Ld. Counsel appearing for the Okhla Enclave Plot Holders (Allottees) Forum (For residential plots) and Okhla Enclave Shops & Commercial Plot Holders Welfare Society has filed submissions dated 29<sup>th</sup> June 2020 and 4<sup>th</sup> August 2020 before this Committee. The Ld. Counsel has not served a copy of these submissions on the other Parties. Mr. Narain is directed to serve copies of the submissions on all concerned. It is reiterated and made clear that all filings made with the Committee have to be simultaneously shared with all concerned.
4. Mr. Narain has submitted that the claims of his clients have attained finality and, in this context, has relied upon Judgment dated 19-05-2006 in CM No. 2971 of 2005 in CWP No. 3311 of 2001 by a Division Bench of Hon'ble Punjab & Haryana High Court at Chandigarh to the following extent -

*“.. In accordance with the liberty given by this Court in the aforesaid matter, the petitioners thereafter approached the Director, who dismissed their claim vide order dated 18.10.2000 on the ground that the petitioners had entered into a contract with the colonizer and were thus liable for the payment of the amounts claimed from them, the more-so as the orders of the Hon’ble Supreme Court dated 7.4.1997 and those passed subsequently were applicable only to those allottees, who had been before the Supreme Court. This order was impugned in the present writ petition and was quashed vide judgment dated 18.3.2002 holding that the writ petitioners were amongst those who had made full payment of the price of the plots and they were thus liable to be treated at par with the writ petitioners before the Hon’ble Supreme Court, who too had made full payment. The ultimate direction was in the following terms: -*

*“For the foregoing reasons, we allow the writ petition, quash the order, Annexure P-15, dated 18.10.2000 and issue a direction that the petitioners will be treated at par with the writ petitioners before the Hon’ble Supreme Court. The petitioners shall also have their costs, which are quantified at Rs.10,000/- to be recovered from the colonizer.”*

*Concededly the judgment aforesaid has become final and as of today has not been appealed against. The petitioners also filed C.O.C.P.No.353 of 2003 seeking to punish the colonizer for violating the orders of this Court dated 18.3.2002, which was disposed of on 4.9.2003 with the following observations: -*

*Ms. Nirmaljit Kaur, learned counsel appearing for the petitioner has at the outset, submitted that the present contempt petition may be dismissed as withdrawn with a liberty to the petitioner to approach the Director, Town and Country Planning, Haryana, Chandigarh by filing a comprehensive representation showing that the directions dated March 18, 2002 issued by a Division Bench of this Court while deciding the CWP No.3311 of 2001 have not been complied with and the members of the petitioners association had not been treated at par with the persons who were petitioners before the Supreme Court of India.*

*Dismissed as withdrawn with liberty as aforesaid.*

*If any such representation is filed by the petitioner’s association or any of its members, then the Director, Town and Country Planning, Haryana shall decide the aforesaid representation by passing a*

*speaking order, within a period of six months from the date the aforesaid representation is filed....*

*Pursuant to the liberty granted in the aforesaid proceedings, the petitioners again furnished the requisite details to the Director, who ultimately disposed of the matter vide his order dated 23.8.2004, Annexure P-16 to the petition.”*

*XXXX*

*“We observe that the judgment dated 18.3.2002 in the impugned writ petition has become final as no appeal has been filed till today. We also observe with some concern that despite the aforesaid order, which is based exclusively on a similar order of the Hon’ble Supreme Court, the petitioners have not been able to get possession of the plots, although full payment had been made by them. ...*

*..... Even otherwise, we find that the order, Annexure P-16, creates no impediment to the allotment of plots to the applicant writ petitioner as it only re-fixes the price thereof by an additional payment of Rs. 50/- on the earlier price of Rs.550/- per sq. yard. ...”*

*XXXX*

*“... We accordingly issue a direction in terms of the order of the Director Annexure P-16 and direct the Colonizer to execute the sale deeds and hand over possession within a period of three months from today and direct the petitioners to pay a sum of Rs.50/- per sq. yard as an additional amount at the registration of the sale deeds before the Sub Registrar. We further direct that in case any of the applications filed by the petitioners still remain un-decided by the Director, the same shall be decided within three months from today.*

*C.M. is disposed of accordingly. ...”*

5. Mr. Narain, Ld. Counsel for the Forum has then drawn the attention of the Committee to the Order dated 04-01-2008 of Hon’ble Supreme Court in SLP 14843/2006 which SLP was filed by Durga Builders Private Limited against the aforesaid Order dated 19-05-2006, which is as follows -

*“Heard learned counsel for the parties.*

*We do not find any ground to interfere with the impugned order.*

*The special leave petition is, accordingly, dismissed.*

*The applications for intervention are permitted to be withdrawn with liberty to the petitioners to move the High Court by filing appropriate writ petition.”*

6. Mr. Narain has contended that in compliance with Judgment dated 18-03-2002, claims, rights and entitlements of members of the Okhla Enclave Plot Holders (Allottees) Forum (hereinafter referred to as the Forum) ought to be treated at par with 492 petitioners, claims of which stand settled by Hon’ble Supreme Court vide Order dated 14-12-2007, passed in I.A. No. 41 in the Writ Petition (Civil) No. 113/1996. As per the Ld. Counsel, all claims and entitlements of members of Forum to eligibility for allotment of their plots, actual allotment of their plots, actual registration of sale deeds in respect of their plots, actual possession of their plots, etc. have become final. He has further submitted that vide judgment dated 19.05.2006, a Division Bench of Hon’ble Punjab & Haryana High Court at Chandigarh had noted that *“the petitioners have not been able to get possession of the plots, although full payment had been made by them.”* It has been submitted that the payments already made by members of Forum ought to be treated and deemed to be in full payment of all dues. Additionally, in compliance with Judgment passed Punjab & Haryana High Court dated 19-05-2006, members of Forum will pay *“a sum of Rs.50/- per sq. yard as an additional amount at the registration of the sale deeds before the Sub Registrar”*.
7. Dr. Gusain, Ld. Counsel for the State of Haryana has pointed out that as per the information available with the Department, only 262 members of the Forum who appeared before the Scrutiny Committee have been found eligible. She has further clarified that other members of the Forum neither

appeared before the Scrutiny Committee nor filed their applications before the Scrutiny Committee. Dr. Gusain has submitted that as per the Judgment of the Hon'ble Supreme Court in this matter dated 03-10-2019 (hereinafter referred to the Judgment), only those persons who appeared before the Scrutiny Committee can be considered for deciding the eligible allottees by the Committee.

8. This submission made by Dr. Gusain is echoed by Mr. Sanjay Jain, Ld. Counsel for Durga Builders Plot Holders Welfare Association (Regd.) and Mr. Piyush Sharma, Learned Counsel for Okhla Enclave Plot Owners Welfare Association (Regd.). Although the Learned Counsel have pointed out that the Mr. Narain has not served a copy of his written submissions to them, without prejudice to their possible contention after reading the submissions, they have contended that as per paragraph 58 of Judgment dated 03-10-2019 of the Hon'ble Supreme Court, only those persons who appeared before the Scrutiny Committee can be considered for eligibility now. They have also relied upon paragraphs 18 and 19 of the previous Procedural Order No. 28 dated 13-07-2020 of this Committee, to submit that those applicants who did not approach the Scrutiny Committee within the stipulated time may be considered for allotment if there is excess land remaining, after the allotment of all such claimants who appeared before the Scrutiny Committee within time have been considered.
  
9. Apropos this issue, this Committee has passed directions in the previous procedural orders which are recapitulated herein below –

Procedural Order No. 11 dated 14-12-2016, paragraph 1,2

*“1. In the previous order dated 26-11-2016, para 5 recites as-*

*“The Office of the DTCP will further provide a list within 7 days of the 537 allottees who petitioned before the Hon’ble Punjab & Haryana High Court by way of Writ. In view of the order in SLP (C) No. 3311/2001, their claim for allotment has also attained finality.”*

*The Counsels have informed the Tribunal that the numbers of allottees mentioned therein should be 567 and not 537. Also, in place of SLP (C) No. 3311/2001, it should be CWP 3311/2001, Punjab & Haryana High Court.*

*Para No. 5 of the order dated 26-11-2015 will thus be read as under –*

*“The Office of the DTCP will further provide a list within 7 days of the 567 allottees who petitioned before the Hon’ble Punjab & Haryana High Court by way of Writ. In view of the order in CWP -3311/2001 dated 18-03-2002, their claim for allotment has also attained finality.”*

*2. Shri Mohit Chaudhary has moved an application to strike down the words “their claim for allotment has also attained finality’ from para 5 of the previous order dated 26-11-2015. He submits that the claim of allotment of the 567 petitioners before the Punjab & Haryana High Court in CWP 3311/2001 has not attained finality and thus, the conclusion regarding attainment of finality of claim has been erroneously drawn by this Tribunal. He further submits that vide order dated 19.05.2005, passed in CM No. 2971/2005 in CWP No. 3311/2001 passed by the High Court of Punjab & Haryana, at Chandigarh what has been observed is that the claims of the petitioners (567) be checked by the office of DTCP and nothing more.*

*The submission made by Shri Chaudhary appears to be incorrect as in the order dated 18-03-2002, Hon’ble Punjab & Haryana High Court had categorically concluded that “to our mind, they (petitioners therein) having deposited full amount claimed from them well in time must at least get the treatment given to the petitioners in Writ Petition Nos. 113,477,876 and 792 of 1996. For the foregoing reasons, we allow the Writ Petition, quash the order, Annexure P-15, dated 18-10-2002 and issue a direction that the petitioners will be treated at par with the Writ Petitioners before the Hon’ble Supreme Court.”*

*The application is dismissed.”*

Procedural Order No. 14 dated 26-05-2017, paragraph 6 reads as follows-

*“6. A representation/ application dated 03-05-2017 has been received by this Tribunal on behalf of one Okhla Enclave Pot Holders (Allottees) Forum. It has been stated this representation has been submitted in pursuance of Order dated 05-04-2017 passed by the Hon’ble High Court of Punjab & Haryana in COCP No. 17 of 2009 wherein the applicants (Petitioner therein) were directed to ‘appear before this Tribunal or the Committee constituted by it to put – forth their claims for verification & satisfaction’. Vide this representation, the applicant Forum has prayed that they may be given physical possession of the plots on a priority basis. However, it has been pointed out by Mr. Dabas that Mr. Rakesh Verma, the President of this Allottees Forum has refused to get the claims/ documents of its members scrutinized by the Scrutiny Committee in view of the previous Orders dated 14-12-2016 of this Tribunal. It is noted that despite being aware about today’s proceedings, no appearance has been entered on behalf of this Allottees Forum to explain reasons for not submitting to the Scrutiny Committee despite there being specific directions of the Hon’ble High Court of Punjab & Haryana vide Order dated 05-04-2017. This conduct tantamounts to contempt of Court. However, in the interest of justice, this Tribunal disposes off the representation/application dated 03-05-2017 with the direction that the applicants must approach the Scrutiny Committee and submit proof of their identity, entitlement and an Affidavit stating that these applicants have not created third party interests with respect to their claim as well as any other document(s)/clarification(s) that the Scrutiny Committee so directs, by 15-06-2017. It is to be noted that even though their claims have attained finality, yet it is important to verify these claims with respect to their identity, multiplicity, payment of dues etc.”*

Procedural Order No. 15 dated 04-08-2017, paragraph 3 reads as following-

*“3. The Tribunal has been informed by Mr. Anil Dabas, DTP(P), Faridabad that the members of the Okhla Enclave Pot Holders (Allottees) Forum had approached the Scrutiny Committee on 15-06-2017 in terms of the previous Order dated 26-05-2017. However, Mr. Anil Dabas has submitted that despite prior intimation the members of the Okhla Enclave Pot Holders (Allottees) Forum have not appeared before the Scrutiny Committee. Mr. Rakesh Verma, President of Okhla Enclave Pot Holders (Allottees) Forum has submitted that their claims should not be scrutinized by the Scrutiny Committee as their claims have attained finality. The*



*Tribunal directs the Okhla Enclave Plot Holders (Allottees) Forum and the Scrutiny Committee to comply with the directions set out in Para No. 6 of the previous Order dated 26-05-2017.”*

10. Thereafter, the Committee had sought certain directions from the Hon’ble Supreme Court to resolve this matter. The Hon’ble Supreme Court was pleased to pass the Judgment dated 03-10-2019 directing the Committee to resolve the matter as per their directions. Paragraph 58 of the Judgment states as follows –

- *The number of eligible allottees are to be decided by the Arbitrator applying the parameters as set out in the order of the Arbitrator dated 07.05.2016 and the learned Arbitrator to determine the final list of eligible plot owners in all the categories – NPNL, Economic Weaker Sections (EWS) and General and also commercial.*
- *Once the allottees are identified and the allottees pay the apportioned development charges, the learned Arbitrator shall direct the Director to execute necessary documents in favour of the allottees in terms of Section 8(4) of the HDRA Act.*

11. The Hon’ble Supreme Court has directed this Committee to decide the number of eligible allottees by applying the parameters set out in its Procedural Order dated 07-05-2016, and seek apportioned development charges from all such eligible allottees. The Hon’ble Supreme Court has noted in paragraphs 3 and 4 of the Judgment that the eligible allottees have been identified by this Committee with the aid and assistance of the Scrutiny Committee which has prepared its report identifying number of claimants in the NPNL, EWS and General category as follows-

<i>I. General</i>	<i>.....470</i>
<i>II. Economically Weaker Sections (EWS)</i>	<i>..... 350 (out of which 106 applied for allotment)</i>
<i>III. No profit, No loss (NPNL)</i>	<i>.....1932</i>

12. As per the Committee's reading of the Judgment, the Committee has been directed by the Hon'ble Supreme Court to consider the claimants who appeared before the Scrutiny Committee, to identify and finalize the list of eligible allottees. The Hon'ble Supreme Court has not carved out any exception for the members of the Forum. At this stage, the Committee is bound by the orders of the Hon'ble Supreme Court to restrict its consideration to the rights and entitlements of only those persons/claimants who appeared before the Scrutiny Committee within the stipulated time.
  
13. The Committee has also perused the submissions made by the State of Haryana on 29-07-2020 and has specifically noted that in paragraph 14 of the Written Submissions, the State of Haryana has acknowledged that as per Rule 4 of the Haryana Development and Regulation of Urban Area Rules, 1976, the Director, Town & Country Planning, is empowered to reduce the extent of land to be utilized for roads, open space, schools, public and community buildings and other common uses to thirty five percent, after recording his reasons in writing. It has been specifically stated by Dr. Gusain that, if needed, the said area will be considered to be reduced under said rule in conformity with the density norms only once the final eligible claimants have been determined.
  
14. The Committee does not agree with the approach of the State of Haryana on this aspect. It had previously expressed the view that it will be more expedient to draw up the final list of eligible plot holders first<sup>1</sup>. It took more than 6 months for the State of Haryana to file its recommendations on the NPPL category on 10-06-2020, which have only added to the conundrum. However, one aspect has become clear now more than ever (even though

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<sup>1</sup> Paragraph 24 of Procedural Order No, 24 dated 5<sup>th</sup> December 2019

it has been reiterated repeatedly by the Committee) that the number of eligible plot holder who can be finalized are way beyond the number of plots available, especially after factoring in the encroachment. Hence, the Ld. Counsel for the Parties have been making endeavors to carve out as many plots as possible. The reluctance of the State of Haryana to not consider the increase of land share for plotted development to 65% in terms of Rule 4 of the Haryana Development and Regulation of Urban Area Rules, 1976 at this stage, is delaying the matter.

15. Mr. Rahul Malhotra, Ld. Counsel for Durga General Plot Holders Welfare Association has submitted that in Phase II consisting of 1424 plots – 766 plots stand encroached, 94 plots have to be kept aside for EWS category, 164 plots have to be reserved for Supreme Court petitioners in Phase II (out of total 492 petitioners). 400 plots remain for the NPNL and General category and his clients' association would require 112 plots in Phase II.
16. Mr. Piyush Sharma has filed submissions on 28-07-2020 and again on 02-08-2020, which have been taken on record. Due to paucity of time, oral submissions related thereto shall be taken up at the next hearing. However, Mr. Sharma has been specifically asked to explain his basis to contend that it is not correct for the Committee to address Respondent No. 6 as the "*erstwhile builder*". Mr. Sharma may make his oral submissions in this regard on the next date.
17. Mr. Sanjay Jain has filed submissions dated 02-08-2020 on the aspect of the density norms, which has been taken on record. Mr. Jain may make his oral submissions on this aspect at the next date of hearing.
18. Lastly, Mr. Piyush Sharma has submitted that the Committee may direct the State to file its recommendations qua the Scrutiny Committee Reports

for General and EWS category as well so that a holistic view of the situation can be taken. The Committee agrees with the suggestion. Since the number of persons who appeared before the Scrutiny Committee in General and EWS category is much less as compared to the NPNL category, the State of Haryana is directed to submit its recommendations qua Scrutiny Committee Reports for General and EWS category within 2 weeks.

19. It is also decided that the Committee shall take up the first category of the Scrutiny Report for NPNL category for consideration on the next date i.e. those who have paid full land cost/development charges before cutoff date-1155, for consideration and decision of their entitlement in the NPNL category.
20. During the previous hearing as well as this hearing, it has emerged as the consensus of all concerned that surplus plots are available in the EWS category. Those claimants who appeared before the Scrutiny Committee in the General or NPNL category may consider to approach as a claimant in the EWS category. The Ld. Counsel for the Claimants are free to submit list of their clients who appeared before the Scrutiny Committee and agree to be considered in the EWS category in place of their existing category. The criteria for consideration as an EWS applicant have been shared by the State of Haryana with their submissions dated 29-07-2020.
21. The Special Committee shall next convene on 25-08-2020 2020 at 2.30 PM to 4.30 PM via videoconferencing. The Special Committee shall make due arrangements for the next hearing by videoconferencing and intimate all concerned.

22. The video-audio recording of these proceedings has been maintained.

A handwritten signature in black ink, appearing to read 'Vikramajit Sen', with a horizontal line underneath.

Justice Vikramajit Sen (Retd.)  
Commissioner