

**BEFORE JUSTICE (RETD.) VIKRAMAJIT SEN
THE SOLE ARBITRAL TRIBUNAL**

In the matter of:

Okhla Enclave Plot Holders Welfare Association & Ors. Petitioners

Versus

Union of India & Ors. Respondents

Present:

Shri Piyush Sharma, Advocate with Shri M.P. Pandey, General Secretary of Okhla Enclave Plot Owners Welfare Association (Regd.).

Shri Sudarshan Rajan and Shri Arjun, Advocates with Shri Kishori Lal, General Secretary of Durga Builders Plot Holders Welfare Association (Regd.).

Shri Jitender Kumar Goel, Secretary, Durga General Plot Holders Welfare Association.

Shri Ramashankar, Advocates for Shri JK Kalra & Ors.

Shri Rishu Kant Sharma, Advocate

Dr. Monika Gusain, Advocate on Record, Advocate for the State of Haryana with Shri Sanjeev Maan, DTP(P), Faridabad and Shri N.S. Chauhan STP Faridabad

Shri Satvik Varma and Shri Udit Chauhan, Advocates for Durga Builders Private Limited with Shri Sanjeev Uppal and Shri Gaurav Kumar, Durga Builders

**PROCEDURAL ORDER NO. 20
DATED 13th JULY 2018**

1. The previous Order was inadvertently dated as 23rd March 2018. The previous Order is Procedural Order No. 19, dated 28th March 2018.
2. Shri M.P. Pandey has filed an Affidavit dated 12th July 2018 '*in terms of Procedural Order No. 19*'. Copy of the same has been supplied to all Parties. Vide this Affidavit, certain prayers have also been sought against the Builder/Colonizer. Upon request, 2 weeks are granted to all concerned for filing a Counter Affidavit to the aforesaid Affidavit. Thereafter, 1 week is granted to file rejoinder, if any. Arguments will be addressed on this Affidavit on the next date of hearing.
3. It has been informed by Durga Builder Pvt. Ltd. that the Technological Survey of the plot land is complete. It has been further informed that a Report will be submitted, before the next date of hearing, to report the details of the said Technological Survey.
4. The Parties have informed the Tribunal that the Parties had a joint meeting on 12th January 2018 at the Office of STP in terms of Order dated 23rd December 2017. However, the Minutes of this Meeting have not been presented before the Tribunal. Dr. Gusain, Ld. Counsel for the State has assured the Tribunal that the said Minutes will be filed before the next date of hearing.
5. With the consensus of all Parties, the Terms of Reference have already been spelt out broadly as follows –
 - a. The Terms of Reference were discussed in detail on 23rd April 2016. It was agreed that it would be of advantage if the 'Cut-off' date is first determined. After detailed arguments and discussion, vide Order dated 7th May 2016, it was decided by consensus that subject to verification and

production of sufficient evidence, the Cut – off date applicable to determine entitlement of each plot holder would need to meet the twin conditions, namely –

- i. Plot Holders should have made bookings along with the entire payment towards cost of land prior to 7th April 1997
- ii. Further, such plot holders should have paid/deposited the entire development charges with the Haryana Government up to 31st December 1999, in terms of Hon’ble Supreme Court’s Order dated 2nd December 1999.

b. It was further decided that plot holders who have not made the entire payment towards cost of land prior to 7th April 1997 but had not made payments towards the Development Charges in terms of Hon’ble Supreme Court’s Order dated 2nd December 1999, can be considered provided that they are willing to pay the Development Charges as would be required on the date of carrying out the actual development, an estimate of which would be provided to the Hon’ble Arbitral Tribunal for its approval.

c. It was also agreed that the multiplicity and duplicity of claims, i.e. more than one claim from one family, will not be considered as eligible. Further, if any person is already in occupation of a plot illegally or by encroachment he will similarly will not be considered by this Tribunal for any further allotment.

d. It was also brought to notice that as per the extant statutory rules pertaining to NPNL category the number of plots restricted to 25% of the aggregate plots. The State had also suggested vertical construction in order to enable maximum allottees. The Tribunal had also suggested to the State

to consider increasing the density requirements and report to the Tribunal if there is some land which is unproductive and unusable, adjacent to the plot site.

e. As the next step, joint survey of the land was felt needed and ordered to be carried out. It was informed at the hearing dated 4th June 2016 that the Joint Survey has been carried out, however details of occupants and entitlement in hands of each occupier, over the licensed Land in Phase I and II could not be verified. With the consent of the Parties it was agreed that verification process will be undertaken on mutually agreed dates between the State and the Builder/Colonizer. It will be pertinent to mention that objection to the *locus standi* of the Builder/Colonizer was taken by the Associations on the first date of hearing. However, it was decided that this issue would be taken up at an appropriate stage.

f. Thereafter, after much deliberation it was agreed that to undertake allotment it is imperative to draw a list of eligible allottees. Applications/representations along with the allotment documents for scrutiny were decided to be sought from all such claimants. A proforma for such representations were mutually agreed upon by the Parties. Further, it was decided that this exercise for scrutiny will be started with NPNL category, which also came to be recorded in Order dated 23rd July 2016.

g. It was decided that a state level advertisement will be issued by the State inviting representations from all parties along with documents supporting their allotment in NPNL category, which was so done on 18th August 2016. Vide Order dated 3rd September 2016, the composition of the Scrutiny Committee was set as follows-

- Senior Town Planner, Faridabad (Chairman)

- District Town Planner, Faridabad
- Representative of Deputy Commissioner, Faridabad
- Representative of the Colonizer of Durga Builders Pvt. Ltd.
- Representative of the concerned Plot Holders' Association

h. Though the Tribunal had granted 4 months (from the last date of submission of representations) to file an '*Eligible List of Allottees*' based on the scrutiny of representations, however, the State of Haryana prayed for extensions of time to complete the process and file the said List.

i. The Report of the Scrutiny Committee came to be filed on 28th October 2017 after scrutiny of over representations/applications in the NPNL category. Vide Order dated 28th October 2017, Parties were given 15 days to put forth their comments/suggestions/reply to the aforesaid report. The Tribunal had ordered to publish the Report on the State's website to enable the Parties to file their comments/suggestions/reply.

j. The Builder/Colonizer had also suggested to prepare a new scheme to accommodate maximum allottees and sought 4 weeks to formulate and file the new scheme.

k. Thereafter, it was decided by the Parties that they will assemble on 12th January 2018 at 3 PM at the Office of STP, Faridabad to deliberate the proposed Schemes by the Builder/Colonizer.

l. On 23rd December 2017, it was also brought to the notice of the Tribunal that there are some clerical errors, some of the applicants' names being missed out etc. The Scrutiny Committee was directed to upload a Corrigendum to the Report by 5th January 2018.

6. Now the matter has to be taken forward from this stage. Hence the following directions are being given, in tune with the course of action adopted so far-

a. The Scrutiny Committee is directed to submit the Final Report of the Scrutiny Committee, after making due corrections and additions as ordered previously, to the Tribunal by the next date of hearing.

b. The Parties are given the last opportunity to file their comments/suggestions/reply, if any to the Report of the Scrutiny Committee for the NPNL category by the next date of hearing. Thereafter, taking into account the comments/suggestions/replies of the Parties, the Tribunal will adjudicate on the Report of the Scrutiny Committee for the NPNL category on the next date of hearing.

c. Since the scrutiny of NPNL is complete, as decided earlier, time has come to order scrutiny of the General and EWS category. The State is directed to again give state -level advertisements inviting representations from all parties along with documents supporting their allotment in General and EWS category by 31st July 2018. The cut off date for submitting these representations should be within 4 weeks of the date of the advertisements. A similar Scrutiny Committee will be formed, as was done for the scrutiny of representations of the NPNL category. The composition of the Scrutiny Committee will be as follows-

- Senior Town Planner, Faridabad (Chairman)
- District Town Planner, Faridabad
- Representative of Deputy Commissioner, Faridabad

- Representative of the Colonizer of Durga Builders Pvt. Ltd.
(*subject to further orders of the Tribunal*)
- Representative of the concerned Plot Holders' Association

d. The Scrutiny Committee will follow the same proforma as was followed at the time of scrutiny of NPNL category. The Scrutiny Process should be completed by 30th November 2018 and the Eligible List of allottees of the General and EWS categories will be handed over to this Tribunal by 10th January 2019.

e. Since the Tribunal is starting the scrutiny of General and EWS category, it is logical that the Plot Holders' Associations only of the General and EWS category foot the bill/fees for this Arbitration till such time. Henceforth the Associations, the State of Haryana and Durga Builders Pvt. Ltd will pay one third share of the arbitral fees.

7. The Associations have jointly demanded that the Tribunal adjudicates on the *locus standi* of Durga Builders Pvt. Ltd. in these proceedings. Upon enquiry, Dr. Gusain, Ld. Counsel for the State of Haryana sought an opportunity to take definite instructions on the matter before addressing the Tribunal. In view of the aforesaid, the Tribunal shall hear arguments from all Parties on the issue of '*locus standi* of Durga Builders Pvt. Ltd. in these proceedings'. Any party, who wishes to submit written submissions or any material to the Tribunal in this regard, may do so 1 week in advance of the next date of hearing.
8. Though the Terms of Reference and the course of action to be undertaken by this Tribunal has been set by the Tribunal in a meticulous manner and with the consent of the Parties at every stage, however, Shri Piyush

Sharma, Ld. Counsel for Okhla Enclave Plot Owners Welfare Association (Regd.). has insisted that a formal Terms of Reference be drawn up as Parties are not able to form consensus on the further course of action. All Parties are hereby given an opportunity to submit draft Terms of Reference in addition to the terms as recapitulated above in paragraph 5, within 2 weeks. Thereafter, the Tribunal shall frame a formal Order setting forth the Terms of Reference.

9. It has been noticed that these proceedings are getting crowded. It is hereby clarified that these proceedings can be attended only by the Advocates and Office Bearers/Authorized Representatives of the various Plot Holders' Associations.
10. The Tribunal shall next assemble on 07-08-2018 at 4. 30 PM.



Justice (Retd.) Vikramajit Sen
Sole Arbitrator