

AFR.

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW

APPEAL NO. 2133 OF 1998

(Against the judgment/order dated 22-07-1998 in Complaint  
Case No.686/1995 of the District Consumer Forum, Ghaziabad)

Ghaziabad Development Authority

.....Appellant

Vs.

Sri Sohan Lal

.....Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT**  
**HON'BLE MR. RAMPAL SINGH, MEMBER**

For the Appellant : Sri Sarvesh Sharma holding brief for Sri  
Ram Raj, Advocate.

For the Respondent : None appears.

Dated : 08-11-2010

**JUDGMENT**

**MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)**

Heard Sri Sarvesh Kumar Sharma, learned Counsel for the  
appellant Ghaziabad Development Authority and perused the record.  
None is present on behalf of the respondent.

Since it is an old matter of the year 1998, we deem it appropriate to  
decide it on merit.

By virtue of the impugned judgment the District Consumer Forum,  
Ghaziabad directed the appellant to refund the amount of Rs.32,000/-  
deposited by the respondent/complainant alongwith interest @ 18% per  
annum. There is a default clause also which provides that if the money  
was not refunded as directed within two months the rate of interest will  
be enhanced to 21% per annum.

The appellant has not disputed that it had received the aforesaid  
sum from the complainant in lieu of allotment of an E.W.S. Basera  
House in Govindpuram Residential Scheme, Ghaziabad. The house was  
reserved for the complainant and payment schedule had also been  
communicated to him vide letter dated 08-11-1989. However, the  
complainant could not get possession over the house nor any formal

Banjh

Qw

letter of allotment was issued to him. The complainant, in the circumstances was obliged to file Complaint No.686/1995 for recovery of his money alongwith interest.

The appellant does not dispute the facts narrated above. In other words the receipt of money is admitted without issuing of an allotment letter. It is also admitted that possession of the house reserved for him was not delivered. No reason for cancellation of the respondent's candidature for allotment of the reserved house was disclosed. Even in the memorandum of appeal it has not been disclosed as to under what circumstances the Ghaziabad Development Authority was not in a position to issue the formal allotment order and handover possession. Learned Counsel for the appellant admits that according to the terms and conditions of the scheme, a select list of the allottees had to be prepared and then formal allotment letters alongwith the authority of possession were to be issued. It is also admitted to the appellant's Counsel that the Basera Scheme of Govindpuram had not been abandoned.

A crucial question would arise as to whether in the circumstances award of interest @ 18% per annum and in case of default regarding payment within two months @ 21% per annum is sustainable or not?

Learned Counsel for the appellant fairly concedes that award of interest at the above rate could be admissible if the residential scheme had been abandoned but as he argues further in the case in hand the scheme was not dropped. It is significant to mention that the Ghaziabad Development Authority was/is fully competent to have cancelled the reservation of the respondent's right to claim for allotment and possession of the house and it was/is equally competent to have accommodated the complainant with an allotment of a house in another scheme but here in the case in hand neither the application of the complainant was rejected, nor reservation of a house on select list basis cancelled. The money was also not refunded and what looks to be more offensive is that the reason was not disclosed. The question is as to whether non-disclosure of a reason for with-holding allotment of a house even after receipt of money is analogous to abandonment of the scheme? Since it is a democratic


Asin

Qm

right of every allottee to learn in categorical and candid terms the reason for cancellation of his right despite reservation of a house on select list basis, the answer must emerge out in affirmative. There may be number of valid reasons for a Development Authority either to with-hold possession/delivery of the house or cancel the allotment but then there should be a valid and democratic reason for doing so. But the answer that neither allotment would be made, nor possession would be delivered nor a reason would be disclosed is absolutely undemocratic, offensive, unconstitutional, discriminative and it is analogous to almost abandonment of a scheme. It is a dictatorial kind of action that come what may neither allotment would be made nor reason for refusal would be disclosed. We are, therefore, not inclined to interfere with the impugned verdict. The deficiency in service was undoubtedly there. The District Consumer Forum might not have recorded a categorical finding on that aspect of the matter but from the discussions made above we are convinced that it was not only a simple deficiency but an offensive deficiency in service which amounts to dictatorial in nature. For this reason we uphold the verdict and direct the appellant Authority to refund the money alongwith interest as awarded by the Forum below i.e. at the rate of 18% per annum. However, we delete the default clause, as award of 18% interest will meet the ends of justice.

In the result, this appeal fails and is hereby dismissed with costs.

  
(JUSTICE BHANWAR SINGH)  
PRESIDENT

  
(RAMPAL SINGH)  
MEMBER

pnt