

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).15620-15621/2008

(From the judgement and order dated 22/02/2008 in LPA No. 1048/2007 & CM No. 3920/2008 of The HIGH COURT OF DELHI AT N. DELHI)

DELHI STATE INDUSL.INFRA.DEVT.CORP.LTD.
VERSUS
YASHPAL MADAN & ORS.

Petitioner(s)

Respondent(s)

(With prayer for interim relief)

WITH SLP(C) NO. 17034 of 2008 (With office report)

SLP(C) NO. 17482 of 2008 (With office report)

SLP(C) NO. 18335 of 2008 (With office report)

SLP(C) NO. 17917 of 2008 (With office report)

SLP(C) NO. 17923 of 2008 (With office report)

SLP(C) NO. 18402 of 2008 (With office report)

SLP(C) NO. 18448 of 2008 (With office report)

SLP(C) NO. 18452 of 2008 (With office report)

SLP(C) NO. 18453 of 2008 (With office report)

SLP(C) NO. 18458 of 2008 (With office report)

SLP(C) NO. 18459 of 2008 (With office report)

SLP(C) NO. 18674 of 2008

(With prayer for interim relief and office report)

SLP(C) NO. 18829 of 2008 (With office report)

SLP(C) NO. 18830 of 2008 (With office report)

SLP(C) NO. 18833 of 2008 (With office report)

SLP(C) NO. 18834 of 2008 (With office report)

SLP(C) NO. 18835 of 2008 (With office report)

SLP(C) NO. 18838 of 2008 (With office report)

SLP(C) NO. 21513 of 2008

(With prayer for interim relief and office report)

SLP(C) NO. 21520 of 2008 (With office report)

SLP(C) NO. 21526 of 2008 (With office report)

SLP(C) NO. 21546 of 2008 (With office report)

SLP(C) NO. 21839 of 2008

(With prayer for interim relief and office report)

SLP(C) NO. 22004 of 2008

(With prayer for interim relief and office report)

SLP(C) NO. 22059-22068 of 2008 (With prayer for interim relief)

SLP(C) NO. 22076 of 2008 (With prayer for interim relief)

SLP(C) NO. 18334 of 2008 (With office report)

SLP(C) NO. 22734 of 2008 (With office report)

SLP(C) NO. 19829 of 2008 (With office report)

SLP(C) NO. 19960 of 2008 (With office report)

SLP(C) NO. 10222 of 2009 (With office report)

SLP(C) NO.20462/2008 (With appln.(s) for permission to place addl. documents on record and with prayer for interim relief and office report) (For final disposal)

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SLP(C) NO. 21126/2008 (With prayer for interim relief)
(For final disposal)

SLP(C) NO. 21289/2008 (With prayer for interim relief)
(For final disposal)

SLP(C) NO. 21407/2008 (With prayer for interim relief)
(For final disposal)

SLP(C) NO. 21512/2008 (With prayer for interim relief)
(For final disposal)

SLP(C) NO. 21516/2008 (With prayer for interim relief)
(For final disposal)

SLP(C) NO. 21681/2008 (With prayer for interim relief)

Mr. Dayan Krishnan, Adv.
Mr. Sarva Mitter, Adv.
Mr. Amit Gupta, Adv.
Mr. Gautam Narayan, Adv.
For M/s Mitter & Mitter Co., Adv.

Mr. Praveen Jain, Adv.

For Respondent(s) Mr. Mohan Jain, ASG
Mr. Harish Chander, Sr. Adv.
Ms. Asha G. Nair, Adv.
Ms. Gunwant Dass, Adv.
Ms. Gargi Khanna, Adv.
Ch. Shamsuddin Khan, Adv.
Mr. Harish Chadha, Adv.
Ms. Rohini Mukherjee, Adv.
Ms. Pankhuri Srivastava, Adv.
Mrs Anil Katiyar, Adv.
Ms. Poornima Bhatt, Adv.

Dr. Nafis A. Siddiqui, Adv.

Mr. Dhananjay Jain, Adv.
Mr. Randhir Singh Jain, Adv.

Ms. Shefali Mitra, Adv.
Mr. S.K. Dhingra, Adv.

.....4.

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Mr. S.K. Sinha, Adv.
Ms. Seema Kashyap, Adv.

Mr. Arya Girdhari, Adv.
Mr. Goodwill Indeevar, Adv.

Mr. Jeevan Prakash, Adv.

Mrs. Sudha Gupta, Adv.

Mr. Jagdish Kumar Chawla, Adv.
Mr. Amit Kumar Tripathi, Adv.

Ms. Kamakshi S. Mehlwal, Adv.

Ms. Neeru Vaid, Adv.

Ms. Praveena Gautam, Adv.

Mr. Jagjit Singh Chhabra, Adv.

Mr. C.S.N. Mohan Rao, Adv.

Mr. P.N. Mishra, Sr. Adv.
Mr. Abhish Kumar, Adv.
Mr. Biswajeet Swain, Adv.
Mr. Pankaj Sharma, Adv.
Ms. Archana Singh, Adv.

Mr. Sanjeeb Mahajan, Adv.
Mr. Siddhartha Chowdhury, Adv.

Ms. Ruchi Kohli, Adv.
Ms. Anju Jain, Adv.
Mr. Hitesh Sachar, Adv.

Mr. S.C. Gupta, Adv.

Mr. S.M. Pandey, Adv.
Mr. F.I. Choudhury, Adv.

Mr. Himanshu Upadhyay, Adv.
Mr. Arvind Minocha, Adv.
Ms. Ruby Sharma, Adv.

Mr. Sanjay Rastogi, Adv.
Ms. Suruchi Aggrawal, Adv.

Mr. Rajat Aneja, Adv.
Mr. Gurmeet Singh, Adv.
.....5.

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Mr. Anil K. Sangal, Adv.
Mr. Deba P. Mohanty, Adv.
Mr. Sunil Goel, Adv.
Mr. Sahil Bhartia, Adv.

Mr. A.K. Sharma, Adv.
Mr. Ajay Chaudhary, Adv.

UPON hearing counsel the Court made the following
O R D E R

SLP(C) NOS. 15620-15621/2008; 17923/2008;
18402/2008; 18448/2008; 18452/2008; 21839/2008;
22076/2008; 22734/2008; 22004/2008 relating to cost of
plots in which service is incomplete, are delinked.
Petitioner is directed to take fresh steps for service.

SLP(C) NOS. 15794/2008; 19007/2008; 19581/2008;
19593/2008; 19815/2008; 22637/2008, 7646/2009,
26531/2009; 26532/2009, 10223/2009; 10222/2009 relating
to downsizing of plots in which service is incomplete,
are delinked. Petitioner is directed to take fresh steps
for service.

SLP(C) NOS. 17034, 17482, 17917, 18453, 18458, 18459,
18674, 18829, 18830, 18833, 18834, 18835, 18838, 19498,
19829, 19960, 21512, 21513, 21520, 21526, 21546, 18334,
18335 AND 22059-22068 OF 2008

Leave granted.

Appeals of the allottees are dismissed and the
appeals of the Corporation are disposed of with the
clarification in terms of the signed order.
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SLP(C) NOS. 19221, 19525, 19576, 19747, 19764, 19773,
19816, 19840, 19885, 19904, 19909, 19914, 19926, 19929,
20462, 21126, 21289, 21407, 21516, 21681, 21683, 23155,
23296 OF 2008, 7647, 7648 AND 10309 OF 2009

Leave granted. Heard the learned counsel.

In terms of the signed order, appeals are disposed of with modifications in the order of the High Court to do complete justice between the parties and to find a solution to the problem.

(Ravi P. Verma) (M.S. Negi)
Court Master Court Master
[Two signed orders are placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2165/2010
[Arising from SLP(C) No.20462/2008]

Delhi State Industrial & Infrastructure
Development Corporation Ltd.

... Appellant

Vs.

Skylark Engineering Works & Anr.

... Respondents

WITH

C.A.NO.	2166	OF	2010	@	SLP(C)	NO. 19221	of	2008
C.A.NO.	2167	OF	2010	@	SLP(C)	NO. 19525	of	2008
C.A.NO.	2168	OF	2010	@	SLP(C)	NO. 19576	of	2008
C.A.NO.	2169	OF	2010	@	SLP(C)	NO. 19747	of	2008
C.A.NO.	2170	OF	2010	@	SLP(C)	NO. 19764	of	2008
C.A.NO.	2171	OF	2010	@	SLP(C)	NO. 19773	of	2008
C.A.NO.	2172	OF	2010	@	SLP(C)	NO. 19816	of	2008
C.A.NO.	2173	OF	2010	@	SLP(C)	NO. 19840	of	2008
C.A.NO.	2174	OF	2010	@	SLP(C)	NO. 19885	of	2008
C.A.NO.	2175	OF	2010	@	SLP(C)	NO. 19904	of	2008
C.A.NO.	2176	OF	2010	@	SLP(C)	NO. 19909	of	2008
C.A.NO.	2177	OF	2010	@	SLP(C)	NO. 19914	of	2008
C.A.NO.	2178	OF	2010	@	SLP(C)	NO. 19926	of	2008
C.A.NO.	2179	OF	2010	@	SLP(C)	NO. 19929	of	2008
C.A.NO.	2180	OF	2010	@	SLP(C)	NO. 21126	of	2008
C.A.NO.	2181	OF	2010	@	SLP(C)	NO. 21289	of	2008
C.A.NO.	2182	OF	2010	@	SLP(C)	NO. 21407	of	2008
C.A.NO.	2183	OF	2010	@	SLP(C)	NO. 21516	of	2008
C.A.NO.	2184	OF	2010	@	SLP(C)	NO. 21681	of	2008
C.A.NO.	2185	OF	2010	@	SLP(C)	NO. 21683	of	2008
C.A.NO.	2186	OF	2010	@	SLP(C)	NO. 23155	of	2008
C.A.NO.	2187	OF	2010	@	SLP(C)	NO. 23296	of	2008
C.A.NO.	2188	OF	2010	@	SLP(C)	NO. 7647	of	2009
C.A.NO.	2189	OF	2010	@	SLP(C)	NO. 7648	of	2009
C.A.NO.	2190	OF	2010	@	SLP(C)	NO.10309	of	2009

O R D E R

Leave granted. Heard the learned counsel.

2. Industries operating in residential and other non-conforming areas were required to shift out of Delhi, in

pursuance of orders of this Court in a Public Interest

Litigation relating to polluting industries. This court also

directed that the oustees should be allotted alternative plots in appropriate industrial areas. The private respondents in these appeals (for short 'respondents') are oustees who were earlier carrying on business in non-conforming areas in Delhi. In compliance with the directions of this court, the Government of National Capital Territory of Delhi, through the Delhi State Industrial and Infrastructure Development Corporation Limited ('DSIIDC' for short), the appellant herein, formed a Scheme for allotment of plots of the size of 250 sq.m., 200 sq.m., 150 sq.m., 100 sq.m. and 50 sq.m. to the oustees in Bawana Industrial Estate. Having regard to the large number of oustees and limited availability of plots, it was decided that the size of the plots to be allotted should not exceed double the area of the erstwhile unit of the oustee in Delhi. That is, if the area where the unit was earlier functioning was 90 sqm, double the area being 180 sqm, on rounding off, the allotment was to be of a plot measuring 150 sqm.

3. However, while making allotments, due to inadvertence, some allottees (including the respondents in these cases) were allotted plots larger than their entitlement under the policy referred to above. The allottees were issued the allotment letters and most of them made full payment of the price. Long after the allotment and receipt of full price, DSIIDC realized that in the case of some of the allottees, the allotment was of plots of areas in excess of their entitlement. According to DSIIDC, 521 out of 18355 allottees were given plots of a size larger than their entitlement. DSIIDC therefore cancelled such allotments and offered down-sized alternative plots. 387 allottees accepted the down sized plots in lieu of the originally allotted larger plots. Out of the remaining 134 allottees, 28 allottees subsequently took possession of down sized plots. The others including the respondents herein (in

all about 106 allottees) did not accept the offer of down sized plots.

4. The private respondents in these appeals approached the High Court challenging the cancellation of their plots on several grounds. They submitted that they are oustees who have been out of business for several years, that most of them have taken loans from either Delhi Financial Corporation or other financial institutions by mortgaging the plots, so as to pay the price of the plots to DSIIDC; and that if their allotments are cancelled, they will be put to irreparable hardship. The said writ petitions were allowed by a learned Single Judge of Delhi High Court by Judgment and order dated 8.12.2005. The learned Single Judge held that the cancellations were illegal and possession of the plots for which firm allotments were made should be handed over to the writ petitioners. The appeals filed by DSIIDC have been dismissed by the impugned judgment dated 18.3.2008 with the following modifications:

"..... We direct that the allotment made to the respondent-allottees should not be cancelled subject to the condition that the allottees shall pay Rs. 4200/- per sq.m. for the area upto double the area occupied by their unit (rounded to the nearest lower size of the plot being offered and subject to minimum of 100 sq.m.) but for the remaining or the additional area they shall pay market rate as on 25th September, 2001. The market rate as on 25th September, 2001 will be calculated on the basis of the reserve price fixed by DDA for the auction of plots in the said locality. In case no reserve price has been fixed, the same may be calculated on the basis of average bid price received in the auctions during the financial year preceding the year of allotment, less 10%. No interest will be payable on the enhanced amount till issue of fresh allotment letter."

5. DSIIDC has filed these appeals inter alia on the ground that the Scheme as modified from time to time made it clear that the size of the plots to be allotted to the

oustees should not exceed double the area which was occupied by them before they were ousted from Delhi and that the maximum size of the plots should be 250 sqm. It therefore, contended that the allottees to whom allotment of plots of a size which was more than double of what was previously occupied, were not entitled to such plots and that DSIIDC was justified in cancelling the allotments and offering down-sized plots corresponding to their entitlement.

6. We find that the learned Single Judge and the Division Bench have considered the facts, circumstances and contentions before concluding that the allotments should not be disturbed. They have taken note of the fact that many had obtained loans and mortgaged the plots, and considered the hardship that will be caused by the abrupt cancellations/allotments at a belated stage. They also took note of the fact that no opportunity to show cause was given to the allottees, before cancellation. In the normal course, this is not a fit case for interference by exercising jurisdiction, under Article 136 of the Constitution, though DSIIDC may be technically correct in its submissions.

7. But certain developments, intervening circumstances and practical difficulties in implementation of the order of the High Court necessitate modifications of the directions issued by the High Court. They are:

- (i) Before the respondents obtained stay, DSIIDC had re-allotted 75 of the cancelled plots to other oustees waiting in the queue and those new allottees have been put in possession and some of them have even commenced construction. Those new allottees are not parties to these proceedings. If the order of the High Court is to be given effect the fresh allotments have to be cancelled leading to complications and further litigation.
- (ii) The Division Bench of the High Court has directed that in regard to the excess area (over and above

the entitlement), instead of downsizing, DSIIDC should collect market rate as on 25.9.2001, based on the reserved price fixed by DDA for the auction of plots in the said locality. But DDA has not auctioned any plot in that locality or any neighbouring locality, either in the year 2001 or in the next few years. Therefore, it is not possible to give effect to the direction that the rate should be determined with respect to reserved price fixed by DDA in 2001.

8. It is not in dispute that in Bawana Industrial Estate, DSIIDC had itself allotted plots in the years 2001, 2002 and 2003 at the price of Rs. 4200/- sqm, even though the market value thereof was much higher. Having regard to the fact that the DDA auction prices are not available, we are of the view that interests of justice would be served if the allottees are directed to pay for the excess areas of their plots at double the DSIIDC allotment prices, that is at the rate of Rs. 8400/- sqm.

9. We are also of the view that wherever the cancelled plot of any of the respondents, has been re-allotted to someone else, the re-allotment need not be disturbed but DSIIDC should allot a similar sized plot in the same industrial area to the respondent.

10. We therefore dispose of these appeals making the following modifications in the order of the High Court to do complete justice between the parties and to find a solution to the problem :-

- (i) Wherever the cancelled plot of a respondent has not been allotted to anyone else, the cancellation of allotment shall stand set aside. The earlier allotment made by DSIIDC shall stand. Consequently DSIIDC shall restore the plot to the respondent-allottee.
- (ii) Where DSIIDC, after cancellation, has re-allotted the plot of any respondent-allottee to some other oustee, DSIIDC shall allot a plot of similar size in any other part of the Bawana Industrial Area.
- (iii) In cases falling under Para (i) or (ii) above, the price payable by the allottee shall be Rs.4200/- per sq.m. for the entitled area (that is double the area of his unit before ouster from Delhi) and Rs.8400/- per sq.m. for the excess

area of the plot.

(iv) Where any of the respondent/allottee is not willing to pay the enhanced price for the difference in area, DSIIDC may offer a plot of one size lower than the plot that was earlier allotted to them, subject to a minimum of 100 sq.m. (that is, where the allotment was of a plot of 250 sq.m. the alternative allotment should be of 200 sqm plot or where the earlier allotment was of a plot of 150 sqm, the alternative allotment of a plot of 100 sqm). In such cases, DSIIDC shall neither claim any difference in price, nor shall be liable to refund any amount for the reduction of 50 sq.m.

(v) DSIIDC shall complete the process of restoration or allotment of alternative plots, as the case may be, in the same Industrial area (Bawana) within six months from today.

.....J.
(R.V. RAVEENDRAN)

.....J.
(SWATANTER KUMAR)

New Delhi;
February 16, 2010.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 2192-2201/2010
[Arising out of SLP (C) Nos. 22059-22068/2008]

Mrs. Kavita Ahuja & Ors.Appellants

Vs.

Delhi State Industrial & Infrastructure Respondents
Development Corporation Ltd. & Anr.

And

CIVIL APPEAL NO. 2202 OF 2010
(Arising out of SLP (C) No.17034 of 2008)

Delhi State Industrial & Infrastructure Appellant
Development Corporation Ltd.

Versus

Gulshan Arora & Anr.Respondents

WITH

CA	No.	2203/2010	[@	SLP	(C)	No.17482/2008]
CA	No.	2204/2010	[@	SLP	(C)	No.17917 /2008]
CA	No.	2205/2010	[@	SLP	(C)	No.18334 /2008]
CA	No.	2206/2010	[@	SLP	(C)	No.18335 /2008]
CA	No.	2207/2010	[@	SLP	(C)	No.18453 /2008]
CA	No.	2208/2010	[@	SLP	(C)	No.18458 /2008]
CA	No.	2209/2010	[@	SLP	(C)	No.18459 /2008]
CA	No.	2210/2010	[@	SLP	(C)	No.18674 /2008]
CA	No.	2211/2010	[@	SLP	(C)	No.18829 /2008]

CA No. 2212/2010 [@ SLP (C) No.18830 /2008]
CA No. 2213/2010 [@ SLP (C) No.18833 /2008]
CA No. 2214/2010 [@ SLP (C) No.18834 /2008]
CA No. 2215/2010 [@ SLP (C) No.18835 /2008]
CA No. 2216/2010 [@ SLP (C) No.18838 /2008]
CA No. 2217/2010 [@ SLP (C) No.19498 /2008]
CA No. 2218/2010 [@ SLP (C) No.19829 /2008]
CA No. 2219/2010 [@ SLP (C) No.19960 /2008]
CA No. 2220/2010 [@ SLP (C) No.21512 /2008]
CA No. 2221/2010 [@ SLP (C) No.21513 /2008]
CA No. 2222/2010 [@ SLP (C) No.21520 /2008]
CA No. 2223/2010 [@ SLP (C) No.21526 /2008]
CA No. 2224/2010 [@ SLP (C) No.21546 /2008]

O R D E R

Leave granted. These appeals arising from a common judgment of the Delhi High Court were heard together and disposed of by this common order.

2. This Court, in a public interest litigation (M C Mehta vs. Union of India - 1996 (4) SCC 750) directed that various polluting industries situated in the residential and other non-conforming areas in the city of Delhi should be closed with effect from 30.11.1996 and should be relocated in new industrial areas. The National Capital Region Planning Board, National Capital Territory administration and the various state governments were required to provide assistance and facilities to the oustees to relocate them in the industrial areas situated in their respective territories.

3. In pursuance of it, the NCT administration entrusted the Scheme for relocation of industrial units to the Delhi State Industrial and Infrastructure Development Corporation Ltd., (for short the 'Corporation'). Clause 5 of the eligibility conditions in the scheme related to the estimated cost of the plots to be allotted. It is extracted below :

"5. Estimated cost of Industrial Flat/Plot : The estimated cost of one flatted factory shall be around Rs.7 lakhs and that of industrial plot shall be approximately Rs.3,000/- per sqm. These are estimated figures and are subject to changes depending upon the cost of acquisition, of

construction/development, location of flatted factory complexes/industrial area, other inputs etc."

4. In pursuance of the said Scheme, various oustees made applications to the Corporation. In or about 1998, applicants who were found eligible for allotment were issued letters of provisional eligibility for allotment, stating that they will be eligible for allotment in due course and actual allotment letters will be issued on the basis of guidelines governing allotment framed by the government. This was followed by a communication in the year 2001-2002 whereby the applicants registered for allotment, were informed that the tentative cost of the plot would be Rs.4200/- per sqm in regard to Bawana Industrial area and Rs.5400/- per sqm for plots in the industrial estate at Narela, Jhilmil and Badli and Rs.7560 per sqm for plots in Patparganj Industrial area. On 26.4.2004, the Government of NCT, Delhi, informed the Corporation that the Lieutenant Governor of Delhi had determined the rates of industrial plots at Narela, Patparganj, Jhilmil, Badli and Bawana Industrial Estates. In regard to Narela Industrial Area, the rates notified were Rs.5400/- per sqm for allotment made in 2001, Rs.6480/- per sqm for allotments made in 2002 and Rs.7776/- per sqm for allotments made in 2003.

5. These appeals relate to allotment of plots in Narela Industrial Area, on the draw of lots held in the year 2003 for which firm letters of allotment were sent to the allottees in the year 2004. These letters of allotment mentioned the rates of allotment as Rs.7776 per sqm. Most of the allottees accepted and paid the said price. A few (including the appellants in the first batch and/or private respondents in the connected appeals filed by the Corporation) challenged the said allotment price by filing

several writ petitions. They contended that the cyclostyled/printed letters of allotment sent to them showed that the price of plot was shown as Rs.5400/- per sq.m; that the said figure was scored off and overwritten by the figure Rs.7776/- per sqm; that this showed the Corporation had mechanically increased the price from Rs.5400/- to Rs.7776/- per sqm, to make profit out of the allotments; and that the price should have a correlation to the actual cost incurred by the Corporation and therefore, they should be charged only the price of Rs. 5400/- per sqm.

6. A learned Single Judge of the Delhi High Court allowed the said writ petitions in part by a common judgment dated 15.5.2007. He held that the Corporation had not specifically pleaded that after the fixation of price of Rs.5400/- per sqm in the year 2001, it had undertaken any development activity or incurred any expenditure for the plots; that there was no justification for increasing the price from Rs.5400/- per sqm to Rs.7776/- per sqm; and that therefore, the price of Rs.5400/- per sqm arrived at in the year 2001 should be maintained, subject however to an increase based upon an adjustment of the said price with reference to the 2007 Wholesale Price Index.

7. Feeling aggrieved, the Corporation filed appeals. The Division Bench, by a common judgment dated 22.2.2008 allowed the appeals and upheld the price of Rs.7776/- per sqm. Thereafter, the Corporation filed an application seeking a clarification that they can charge interest on the amounts due in accordance with the Scheme/letters of allotment. The Division Bench dismissed the said application on 28.3.2008 holding that its order did not require any clarification.

8. Some of the allottees (19 appellants in the first batch) have challenged the decision dated 22.2.2008 of the Division Bench upholding the price of Rs.7776/- per sqm. They contend that price fixation by the learned Single Judge was proper and did not call for any interference.

9. Feeling aggrieved by the 'non-grant' of interest on the cost of plot and the refusal by the Division Bench to clarify that the Corporation is entitled to charge interest at the rate of 18% per annum on the delayed/default payments, the Corporation has filed the connected appeals.

10. On the contentions urged, the following two questions arise for our consideration:

(i) Whether the Corporation is entitled to charge the price of Rs.7776/- per sqm for allotment of plots in Narela Industrial Area during the year 2003?

(ii) Whether the Corporation is entitled to charge interest on the delayed/defaulted payments?

Re : Question (i)

11. The Scheme stated that the tentative allotment price of Rs.3000/- per sqm indicated therein is only an estimate and it was subject to change depending upon the cost of acquisition, development, location and other relevant inputs. Though the allottees were identified as being eligible for allotments in the year 1998, and though the provisional allotment price was indicated as Rs. 5400/- per sqm in the years 2001-2002, the firm allotment of plots in pursuance of selection by draw of lots, was made only in the year 2003. When the draw of allotments took place in 2003 and the letters of allotment were issued in 2004, the prevailing allotment prices for plots in Narela Industrial area (fixed by the Lieutenant Governor of Delhi as allotment prices for plots under the 'Relocation Scheme')

was Rs.7776 per sqm. The Corporation demanded the price in accordance with the fixation of price by the Lieutenant Governor. The fact that format of ready to use of allotment letters prepared earlier with the figure Rs. 5400/- per sqm were used for notifying the firm allotment by correcting the figure of allotment price as Rs. 7776/- per sqm, does not give a right to the allottees to claim allotment at a price of Rs. 5400/- per sqm.

12. The Division Bench has considered the aspect of price in detail. After referring to the decisions of this Court in Delhi Development Authority vs. Pushpendra Kumar Jain - 1994 Supp. (3) SCC 494 and Chief Administrator PUDA & Anr. Vs. Shabnam Virk - 2006 (4) SCC 74, it held that the prices prevailing at the time of issuing the letter of allotment, and not any earlier prices would be the price that would apply to the allotments. The Division Bench concluded:

"Even if the allotment has to be made on 'no profit no loss' basis, it is necessary to determine the value of land prevailing at the time when the allotment has to be made. The value of land in the NCT of Delhi has seen a tremendous increase over the last decade. In order to determine the year after year increase in the value of the land and cost of construction, a method can be adopted whereby a specific percentage addition is made to the exiting price. The same was the method which was adopted by the DSIDC and the appropriate percentage addition was fixed at 20% per annum."

"The DSIDC has also submitted that the reserve price fixed by the DDA for the plots at Narela industrial complex in 2004 was Rs.24,000/- per sqm and the rate at which the allotment being made is still less than 1/3rd of the reserve price prevailing on the date of allotment. The said contention was answered by the learned Single Judge by stating that the allotment in the present case is under a relocation scheme and the aforesaid comparison cannot be a parameter to determine the price in case of allotment of plots under a relocation scheme. In the relocation scheme the allotment is made on 'no-profit no-loss basis' whereas the aforesaid reserve price was fixed by DDA in a case where the allotment was to be made by auction. We also agree that it will not be just and proper to compare the two prices as the allotment in the present case is under a specific scheme i.e. relocation scheme, but the

same can be a indication to the fact that there would have been an increase in the cost of land and also in the cost of development. Land is not being allotted to the respondents at the market rate, but at the fixed pre-determined rate fixed by the Government of NCT of Delhi. The fixed pre-determined rate is almost 1/3rd less than the reserve price fixed for auctions".

13. The price of Rs.5400/- per sqm fixed in 2001 is not disputed by the allottees. Having regard to the interest on the investment by way of financing cost, overheads and other factors, if the policy of the NCT of Delhi is to increase the price every year by 20%, it cannot be stated that the said increase is unreasonable or arbitrary. Having regard to the fact that the lands are being continuously acquired and developed and allotted, it will be very difficult to calculate the actual cost at any given point of time. So long as the Corporation has shown that it had adopted a reasonable method of fixation of allotment prices and has asserted that price fixation is on a 'no profit no loss' basis, the price is not open for interference. We find that the Division Bench has dealt with the issue appropriately and has rightly upheld the price of Rs.7776/- per sqm.

14. Learned counsel for the allottees relied upon the decision of this Court in Delhi Development Authority vs. Joint Action Committee, Allottee of SFS Flats - 2008 (2) SCC 672 and contended that only those components which fall within the offer documents/allotment letter or within the purview of statutory requirements can be included in the exercise of price fixation. The said observations were made by this Court with reference to the following clause of DDA Scheme which reads as under :

"5.10. The details of the flats and tentative cost, etc. are available in Annexure B. The cost of the flats mentioned therein is tentative and subject to revision on account of escalation in the value of land and cost of construction. Please note that there is a possibility of upward revision of the tentative cost."

But the relevant clause in the DSIDC Scheme in regard to price fixation (extracted in para 2 above) is significantly different. While the DDA Scheme specifically required that revision should be restricted to escalation in the value of land and cost of construction, the relevant clause in the DSIDC Scheme stated that the tentative price is merely an estimate subject to change depending on cost of acquisition, development, location and other relevant inputs. Therefore, the decision in the case of DDA in no way assists the allottees to seek any reduction in the allotment price.

Re : Question (ii)

15. The Scheme and the letters of allotment categorically stated that in regard to delayed payments, interest at 18% per annum would be charged after the initial period of 60 days. The relevant clause in the letter of allotment is extracted below :

"You are requested to deposit the full cost of the plot at the rate of Rs.7776/- per sqm after adjustment of earnest money deposit & interest accrued thereon and instalment amount, if any paid. The payment should be deposited within 60 days from the date of issue of this demand-cum-allotment letter. Further, another 45 days are allowed for depositing the payment with 18% interest. Thereafter, no payment will be accepted and allotment of plot shall be cancelled without any notice and no correspondence in this regard will be entertained."

In the writ petitions filed by the allottees, only the price mentioned in the allotment letters was under challenge. As the provision for interest in the allotment letter was not under challenge, interest payable by the allottees was not the subject matter of the writ petitions. The issue urged by the allottees and considered and decided by the High Court was only the correctness of the allotment price. Therefore, the High Court had no reason to observe that the Corporation

is entitled to interest. If the allottees are liable to pay interest under the term of the scheme or the letter of allotment and the same was not challenged, the Corporation is not barred from claiming the same. The fact that the High Court did not refer to interest payable and did not specifically state that the Corporation was entitled to charge interest does not disentitle the Corporation from claiming interest in terms of the letter of allotment.

16. As stated above, the issue before the High Court was about the allotment price and not about the interest payable on delayed payments. The allottees cannot therefore refuse to pay interest on the delayed payment. The Division Bench declined to make any clarification, on the application for review, as that was not the issue in the writ petition or the appeals before it. However to put an end to any uncertainty and possible disputes, we clarify that Corporation will be entitled to claim and receive from the allottees, interest as per the letter of allotment on delay/defaulted payments.

17. In view of the above, appeals of the allottees are dismissed and the appeals of the Corporations are disposed of with the clarification.

(R.V. RAVEENDRAN)

.....J.

.....J.
(SWATANTER KUMAR)

New Delhi;
February 16, 2010.