

PETITIONER:  
SHRI BHAGWAN SINGH

Vs.

RESPONDENT:  
THE CHAIRMAN, NOIDA & 2 ORS.

DATE OF JUDGMENT 19/01/1995

BENCH:  
RAMASWAMY, K.  
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RAMASWAMY, K.  
VENKATACHALA N. (J)

CITATION:  
1995 SCC (2) 420                      JT 1995 (2)      55  
1995 SCALE (1) 416

ACT:

HEADNOTE:

JUDGMENT:  
ORDER

1. Admittedly, the petitioner was found to be one of the eligible persons entitled to be registered as a member of the Coop. Societies for allotment of the plots in NOIDA. He also deposited the price within time on diverse dates as directed by the Society itself. The NOIDA refused allotment of the plot to the petitioner on the sole ground that 1.5.76 was the cut off date and who so ever was a member of the society prior to it would be entitled for the allotment. As the petitioner was enrolled as a member on 8.5.76, he is not eligible for allotment of the plot. It is seen from the record that the Society had bungled in the matter of enrollment of members. In consequence the petitioner was constrained to invoke arbitration proceedings before the competent authority The Register in his award dated 9.11.83 recorded a clear finding that the petitioner had complied with what all the rules requires him to do and the Society had committed bungling in not forwarding the name of the petitioner within the time. Consequently, a direction was given to forward the name of the petitioner for the enrollment as a member. The award became final and the Society was bound by it. Since it came to be received after the due date, the registration has been made after 7 days from the cut off date put by this Court in NOIDA v. U.P. Residents Emp. Coop. Hsg. Bldg. Society, 1990 (supp.) SCC 175. The petitioner was in no way responsible for delay in admission beyond the cut off date. In view of the fact that the petitioner himself has been agitating for his right to membership and for allotment of plot and having already deposited the amount, we think that he cannot be penalised for misfeasance of the Society. Under the circumstances, the writ petition has to be allowed. It is accordingly allowed under the said special circumstances but not on any other ground and it cannot be used as a precedent to overcome the cut off date fixed by this Court.

2. It is brought to our notice that the respondents have refunded the entire amount deposited by the petitioner and he had kept the amount in a separate account earning interest thereon. The petitioner is directed to withdraw the amount from the account with notice to the respondent and it is open to the respondent to verify this fact. After withdrawal of the amount, the petitioner should immediately deposit the entire amount to funded by the respondent together with interest earned thereon, with the respondent. No costs.

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