

H.U.D.A. and Another

Vs

Anil Sabharwal and Others

Civil Appeal No. 8637 of 1997

(CJI J. S. Verma, B. N. Kirpla JJ)

05.12.1997

JUDGMENT

VERMA, C.J. –

1. Leave granted limited to the question indicated in our order dated 7-7-1997.

2. The grievance of the appellants is that our order dated 7-5-1997 in Sanjay Jain v. Anil Sabharwal [SLP (C) No./97 (CC No. 4325 of 1997), dated May 7, 1997, printed below at p. 374)] has been misconstrued to mean that the legality of allotment of plots made under discretionary quota even prior to 31-10-1989 has been directed by that order to be reopened and examined. It is submitted that such a misinterpretation results from a misconstruction of certain words in that order, namely :

"We are constrained to observe that the accountability of the authorities who are responsible for making these arbitrary allotments which have been rightly cancelled by the High Court needs to be examined after their identity is fixed in an appropriate proceeding. In addition, it is also expedient that any remaining allotments of the kind which have been cancelled by the High Court should also be treated alike. This exercise has not been performed by the High Court in the present case. It is, therefore, expedient that as a follow-up action, the High Court should proceed to complete the exercise."

3. It is sufficient for us to clarify that by the above order dated 7-5-1997 this Court upheld cancellation of the allotments out of the discretionary quota made after 31-10-1989 and it was further said that any remaining allotments of the same kind should be treated alike to complete the exercise. In other words, our order dated 7-5-1997 contained the direction to treat all allotments out of the discretionary quota made after 31-10-1989 without any exception, in order to examine the accountability of the authorities concerned as also to avoid any discrimination between allottees subsequent to 31-10-1989. That order was, therefore, concerned entirely with the allotment made after 31-10-1989 and did not refer to any allotment prior to that date. We consider it necessary to say so to avoid any possible misinterpretation by this Court's order dated 7-5-1997.

4. We may, however, add that the only question for examination by this Court in Sanjay Jain v. Anil Sabharwal case [SLP (C) No. ... /97 (CC No. 4325 of 1997), dated May 7, 1997, printed below at p. 374] being all the allotments made subsequent to 31-10-1989, our order is also not to be construed as inhibiting any separate/independent action in respect of allotments for any other period including

period prior to 31-10-1989. The appeal is disposed of with this clarification.

5. IAs Nos. 4 and 5 1997 are dismissed as withdrawn.