

SUPREME COURT OF INDIA

U.G. Hospitals Pvt. Ltd.

Vs.

State of Haryana

C.A.No.804 of 2011

(R.V.Raveendran and A.K.Patnaik JJ.)

19.01.2010

ORDER

1. Leave granted. Heard.

2. Haryana Urban Development Authority ('HUDA' for short), the second Respondent herein, issued an advertisement in the newspapers dated 14th and 15th June, 2005, inviting applications for allotment of a hospital plot measuring 12 acres in Sector 23 A, Gurgaon, and a hospital plot measuring 8.3 Acres in Sector 51, Gurgaon, from persons interested on or before 29.6.2005. In response to the said advertisement, the Appellant applied for the hospital plot in Sector 51 on 28.6.2005. The fifth Respondent applied on 15.6.2005 (said to have been received by the HUDA on 27.6.2005) for allotment of the hospital plot in Sector 23 A, stating that if they were not allotted the plot in Sector 23 A, their application may be considered for allotment of the plot in Sector 51.

3. By re-advertisement dated 7.7.2005, the last date for submission of applications was extended upto 20.7.2005 with a clarification that those who had applied earlier in response to the advertisement dated 14/15.6.2005 need not apply again. The fifth Respondent gave a letter dated 18.7.2005 to HUDA stating that on physical verification it was found that the plot in Sector 23A was only 8.66 acres and not 12 acres and there was also some difficulties in regard to use of the entire plot for construction and therefore, their application may be considered for allotment of the plot in Sector 51.

4. Both the advertisements required the applicants to apply for allotment in the form prescribed in the advertisements. While the application of fifth Respondent dated 15.6.2005 for the plot in Sector 23A was in the prescribed form, the subsequent letter dated 18.7.2005 seeking allotment of the plot in Sector 51 was not an application in the prescribed form, but was only a request letter. After considering the applications, HUDA allotted the plot at Sector 51 to the fifth Respondent. The Appellant was not allotted any plot. The plot at Sector 23A was not allotted to any one.

5. In pursuance of such allotment, the fifth Respondent obtained sanction of a building plan on 25.4.2006 and completed the construction of hospital building in July, 2007. A deed of conveyance dated 19.7.2007 was executed in favour of the fifth Respondent in regard to the plot at Sector 51. The fifth Respondent's hospital is stated to be functioning in the plot at Sector 51, from 2007 itself.

6. In April, 2007, the Appellant filed a writ petition for quashing the allotment letter dated 27.9.2005 issued in favour of the fifth Respondent in regard to allotment of the hospital plot at Sector 51 and seeking a direction to the HUDA and the State to allot the said plot at Sector 51 in its favour. Alternatively the Appellant prayed that the vacant hospital plot at Sector 23A may be allotted to it. The said writ petition was dismissed by the High Court by impugned order dated 1.12.2008, on the ground that there was considerable delay in filing the writ petition challenging the allotment in favour of the fifth Respondent. The High Court also found that there was no irregularity in allotting the plot in Sector 51 to the fifth Respondent. It held that the Appellant who had participated in the process of allotment without questioning the same, could not challenge the allotment in favour of the fifth Respondent. The said order is challenged in this appeal by special leave.

7. The Appellant contends that the application for allotment by the fifth Respondent was in regard to the hospital plot in Sector 23A and the letter given on 18.7.2005 could not be considered as an application for allotment of plot at Sector 51. It was submitted that HUDA ought to have allotted the plot at Sector 23A to fifth Respondent and plot at Sector 51 to the Appellant as per their respective applications. It was contended that by allotting the plot at Sector 51 to fifth Respondent even though its application was for allotment of plot at Sector 23A, HUDA committed an irregularity, thereby denying the Appellant to its legitimate claim for allotment of a plot. It is further contended that when the application in the prescribed form by fifth Respondent was for allotment of plot at Sector 23A, there was no justification for allotting the plot at Sector 51 to fifth Respondent. It was submitted that the Appellant fulfilled the eligibility/preference criteria specified in the advertisement for allotment of the plot.

8. Learned Counsel for the State and HUDA submitted that a fresh advertisement was issued in the newspapers on 7.7.2005 extending the date for making applications till 20.7.2005 and the application dated 18.7.2005 given by fifth Respondent sought allotment of the plot in Sector 51 and therefore the fifth Respondent was an applicant for the plot at Sector 51 also. The fifth Respondent submitted that it had applied for the alternative plot, that is plot at Sector 51 in pursuance to the re-advertisement on 7.7.2005 and therefore the allotment was legal.

9. Even though the application of fifth Respondent for the plot at Sector 51 was not in the prescribed form, the allotment was made as long back as on 27.9.2005 and the fifth Respondent has constructed and running the hospital even from 2007. The Appellant filed the writ petition only on 2.4.2007, nearly one and a half years after the allotment. In the circumstances, the High Court was justified in not interfering with the allotment that was

made to the fifth Respondent. We find no reason to interfere with the decision of the High Court.

10. At this stage the learned Counsel for the Appellant submitted that though there were several applications, ultimately, all other applications were withdrawn, and there were only two applications for the two plots, that is, Appellant for hospital plot at Sector 51 and fifth Respondent for hospital plot at Sector 23A. learned Counsel for the Appellant submitted that the plot at Sector 51 having been allotted to the fifth Respondent, HUDA ought to have at least allotted the plot at Sector 23A to Appellant. The Appellant submitted that it was ready and willing to accept the plot at Sector 23A on 'as is where is basis', irrespective of the site condition. It is also submitted that the alternative prayer for allotment of the plot at Sector 23A made in the writ petition, was not considered by the High Court.

11. Having regard to the fact that the Appellant had made a valid application for allotment and it was improperly rejected on account of HUDA allotting the plot applied for by the Appellant to the fifth Respondent (even though its application was for a different plot), HUDA may consider the request of the Appellant for allotment of the hospital plot at Sector 23A on such terms as it deems fit, as per its rules and regulations in accordance with law.

12. With the said observations, this appeal is disposed of.