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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 23rd January, 2025**

+ W.P.(C) 1607/2024

VIKRAM SINGH GAHLOT & ORS.Petitioners
Through: Ms. Sonia A. Menon, Advocate.
versus

DELHI DEVELOPMENT AUTHORITY & ORS.Respondent
Through: Mr. Arun Birbal with Mr. Sanjay
Singh, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

W.P.(C) 1607/2024 & CM APPL. 1979/2025 (filed by DDA seeking clarification/permission to carry out auction)

1. With the consent of learned counsel for both the sides, the entire writ petition has also been taken up for consideration along with the above said application.
2. DDA had come up with a scheme known as *Diwali Special Housing Scheme, 2023* whereby they offered flats at three localities i.e. Sector 19-B, Dwarka, Sector 14, Dwarka and Loknayakpuram through e-auction.
3. The present petition, however, relates to Sector 19-B, Dwarka.
4. As per the above said scheme, the following number of flats were constructed at Sector 19-B, Dwarka.

S.No.	Type	No. of Flats
1	HIG	946
2	Super HIG	170
3	Penthouse	14
Total		1130



5. Admittedly, all the above said flats have already been sold by DDA.
6. DDA had come up with another online scheme i.e. *DDA Diwali Special Housing Scheme, 2023* on *first come first serve basis*.
7. As per the above said scheme, 30592 flats, including HIG, MIG, LIG and EWS flats, were put on offer on first come first serve basis.
8. Admittedly, 728 flats for EWS , constructed in Sector 19-B, Dwarka, were also on offer with respect to the above said scheme and 50% of the above said 728 flats have already been disposed of by DDA on *first come first serve basis*.
9. There are eleven petitioners in the present petition and they are occupants of some flats of HIG category, Super HIG category and Penthouse category at Sector 19-B, Dwarka which came their way through e-auction.
10. The grievance of the petitioners is very limited and, *inter alia*, they seek direction for DDA to comply with Notifications dated 13.04.2013 and 23.09.2013 issued by Ministry of Urban Development (Delhi Division) and thereby to offer remaining 50% of EWS flats of Sector 19-B, Dwarka, New Delhi to the purchasers of other categories of flats i.e. HIG category, Super HIG category and Penthouse category situated in same sector i.e. Sector 19-B, Dwarka.
11. When this petition was taken up earlier on 06.02.2024, the various facets of the case were recorded. Relevant part of such order reads as under:-

“3. By way of the present petition, the petitioners have raised their grievance against the action of the respondents by putting the flats for



Economically Weaker Section (“EWS”), constructed in pursuance of notifications dated 13th April, 2013 and 23rd September, 2013 for allotment on “first come first serve basis” without offering 50% of the same to the successful bidders under the E-Auction Scheme.

4. It is submitted that respondent no. 1/Delhi Development Authority (“DDA”) floated the “Diwali Special Housing Scheme, 2023” e-auctioning 2093 newly constructed flats of various categories at Sector 19-B Dwarka, New Delhi. The petitioners were declared as H1 bidders in the e-auction for the respective flats in Sector 19-B Dwarka. Subsequently, DDA issued a Circular dated 27th January, 2024 announcing that all the 728 flats in Sector 19-B Dwarka that have been constructed under the EWS category in tower “L” and tower “M” would be allotted on “first come first serve basis” and the process for allotment would commence from 11 A.M. on 07th February, 2024.

5. Ms. Sonia Arora, learned counsel appearing for the petitioners submits that the 728 flats under the EWS have been constructed in pursuance to the notification dated 13th April, 2013 and 23rd September, 2013 issued by the Ministry of Urban Development, which makes it mandatory for the respondent no. 1/DDA to reserve 50% of these flats to be offered to the purchasers of residential units at Sector 19-B Dwarka, New Delhi. Thus, it is submitted that the respondents without offering 50% of the flats to the successful bidders, have announced the allotment of these EWS flats in open market on first-come-first-serve basis. Despite the requests made to the respondents to make the allotment of the EWS category flats strictly in consonance with the terms of the notification and changes made to the Master Plan 2021, no clarification has been issued to the petitioners qua the same.

6. Issue notice. Notice is accepted by learned counsel appearing for the respondents.

7. Ms. Shobhana Takiar, learned Standing Counsel for respondent no.1/DDA submits on instructions that out of the two towers, i.e., tower “L” and tower “M” of the EWS flats, e-auction on “first-come-first-serve basis” shall be carried out only with respect to one tower.

8. The aforesaid statement made by learned standing counsel for the DDA is duly noted by this Court and the respondents are held bound by the same.

9. Accordingly, it is clarified that out of the 728 flats which are stated to exist in tower “L” and tower “M” under the EWS category, the DDA shall carry out the e-auction on “first-come-first-serve basis” only with respect to 364 flats.

10. Per contra, learned counsel appearing for the petitioner submits that it is tower “M” which is more suitable for the purposes of the petitioners.



However, learned Standing Counsel for DDA submits that she has no instructions with regard to whether it is tower "L" or tower "M" on which the e-auction on "first-come-first-serve basis" shall be carried out.

11. Let reply be filed within by the respondents within a period of two weeks. Rejoinder thereto, if any, be filed within two days thereafter.

12. List on 06th March, 2024."

12. Now, there is a significant development in the matter as the respondent DDA has moved the above said application in which DDA itself now proposes to offer these remaining 364 EWS flats to those who have purchased the apartments in the above said category of HIG, Super HIG and Penthouse at Sector 19-B, Dwarka.

13. According to DDA, these flats would be, *albeit*, sold at market rate and, therefore, the reserve price would be calculated without any kind of discount or subsidy. They also propose that if sufficient number of apartment owners do not come forward to buy these flats in e-auction, the unsold flats would be offered to EWS community among the general public through *first come first serve basis*.

14. The relevant submissions made in this regard in the above said application are reproduced as under:-

"3. That DDA has already filed its counter affidavit to the writ petition, in which it is stated that DDA had issued a circular on 06.02.2024 pursuant to which 50% of EWS flats i.e. all 364 EWS flats in Tower 'L' were offered to the general public from EWS category from 07.02.2024 onwards on First Come First Serve (FCFS) basis and all these 364 EWS flats stand sold out. It has also been stated that DDA proposes to offer remaining 50% of the EWS flats i.e. all 364 flats in Tower 'M' to the H-1 bidders of Housing Pocket of Sector 19B, Dwarka once the third phase of e-Auction is over. It has also been stated that since, the total number of auction flats in Sector 19-B, Dwarka, New Delhi is around 1130 [Penthouse (14), Super HIG (170) and HIG (946)], and the EWS flats available are only 364, DDA proposes to offer these EWS flats to these apartment owners through e-Auction mode. It has also been stated that as these flats will be sold at market rate, therefore, the reserve price will be calculated without any discount or subsidy, as is being made available for EWS flats on First Come First Serve (FCFS) basis. It has also been proposed that if sufficient



number of apartment owners do not come forward to buy these flats through e-Auction, the remaining of these flats will be offered to the EWS community among the general public through FCFS mode.

4. That the third phase of the E-auction referred to above is already over. It is now intended that the 364 EWS built-up flats built under EWS category in Tower 'M' be auctioned amongst the allottees of the auctioned flats in sector 19-B, Dwarka, New Delhi through the mode of E-auction in first phase and if all or any of the said flats do not get disposed of accordingly, the remaining flats be offered to the EWS community among the general public through FCFS mode.

5. That it is respectfully submitted that though it appears, that vide order dated 06.02.2024, this Hon'ble Court had not injuncted DDA from carrying out the E-auction of the flats built under EWS category in Tower 'M' amongst the allottees of auctioned flats in Sector 19 B, Dwarka, New Delhi, it is felt appropriate that by way of abundant caution, a clarification be taken from this Hon 'ble Court that it is open for DDA to carry out such an auction of these flats. However, this if this Hon'ble Court is of the opinion that the effect of order dated 06.02.2024 is that DDA is injuncted from carrying out the E-auction of 364 EWS flats in Tower 'M' by Eaucion among the owners of the auctioned flats in sector 19-B, Dwarka, New Delhi, it is respectfully submitted that the order dated 06.02.2024 be varied and DDA be permitted to carry out the E-auction in Tower 'M' among the owners of the auctioned flats in sector 19-B, Dwarka, New Delhi.

6. That no prejudice would be caused to the petitioners in the present writ petition, in as much as the above proposed action of the DDA is in accord with the relief sought by the petitioners in this writ petition. Balance of convenience is also in favour of DDA accordingly.

7. That it is respectfully submitted that very substantial amount of public money invested by DDA is lying blocked in the above flats. DDA is further required to spend substantial amount of money for keeping these flats secured from trespassers and on regular maintenance of these flats. These flats are meant to alleviate the housing needs of the families belonging to the economically weaker sections of the society. Hence, it is respectfully submitted that it would be in the interests of justice and in public interest that DDA is permitted to carry out the disposal of these 364 EWS flats in Tower 'M' by E-auction among the owners of the auctioned flats in sector 19-B, Dwarka, New Delhi.”

15. Learned counsel for the petitioners appears on advance notice and submits that in view of the above said proposal of DDA whereby they have now proposed that the remaining 50% of EWS flats would be offered



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to the 1130 allottees of Sector 19-B, Dwarka by way of e-auction, the grievance of the petitioner has been taken care of adequately and, therefore, she submits that on the basis of the aforesaid proposal made by DDA, the present petition may be disposed of as she has no objection to the above said application either. However, she submits that if the reserved, price, to be fixed with respect to the above said EWS flats, is eventually found to be totally arbitrary and irrational, the petitioners may be given liberty to challenge the same by filing appropriate petition.

16. In view of the above, while allowing the application moved by DDA, the present writ petition is also disposed of in aforesaid terms. Liberty, as prayed, is granted to the petitioners.

17. The next date of 07.02.2025 is cancelled.

(MANOJ JAIN)
JUDGE

JANUARY 23, 2025/st