RITU MAHESHWARI

v.

M/S. PROMOTIONAL CLUB

(Civil Appeal Nos. 3616-3618 of 2022)

MAY 05, 2022

[UDAY UMESH LALIT, CJI, S. RAVINDRA BHAT AND PAMIDIGHANTAM SRI NARASIMHA, JJ.]

Administrative law: Scheme of allotment of plot – Termination of – When regulations or schemes, or policies change, applicants for their benefits have no inherent right to be considered under the old policy; rather the consideration has to be under the new regime, unless the latter contains an express stipulation to the contrary – Writ petitioner-club did not challenge the closure of the scheme of allotment in which it was applicant; rather its case was that Noida's omission to consider its application for allotment was arbitrary – Once the club accepted the closure of the scheme and did not challenge it, there was no question of its agitating any right or grievance regarding non-consideration of its application – The club does not deny that there were other registrants, similarly circumstanced, who did not secure any allotment – They presumably were treated in the same manner as the club was – In the circumstance, the club could not without establishing any discrimination, merely on the strength of closure of the scheme, allege arbitrariness.

Equity: Failure to disclose relevant facts before court – Entitlement to equitable relief – Held: The club was allotted a plot in 2014 in new scheme – The club, had an obligation to disclose it, during the pendency of writ proceedings in which club had challenged termination of old scheme – This fact was material, given that the jurisdiction invoked was equitable and discretionary – Whether the grievance was justified and well founded, given that state agencies develop and allot such industrial units at prices which are reasonable, and that an applicant subsequently succeeded in securing a plot, are relevant facts, which a court should be appraised of – The failure by the club, to do so, disentitled it to any relief.

A **Allowing the appeals, the Court**

HELD: 1. The club's grievance was that its application was not considered – its representatives were not interviewed. Noida pointed out that it closed or terminated the scheme. In the writ proceeding, the club did not challenge the closure of the scheme; B **rather its case was that Noida's omission to consider its application for allotment was arbitrary. Once the club accepted the closure of the scheme and did not challenge it, there was no question of its agitating any right or grievance regarding non-consideration of its application. The club does not deny that there were other registrants, similarly circumstanced, who did not** C **secure any allotment. They presumably were treated in the same manner as the club was. In the circumstance, the club could not without establishing any discrimination, merely on the strength of closure of the scheme, allege arbitrariness. It is well established that when a policy decision like the closure or termination of a** D **benefit available to a class of persons, is not challenged, the consequence of such closure (which is the impact on the pendency of those wishing to be considered) cannot ordinarily be subject matter of a grievance. What the club had was a right to be considered for allotment of the plots its applied for, so long as the old scheme subsisted. An applicant or registrant of a scheme** E **has no right to insist that they should be provided allotment under a scheme. In the absence of any ambiguity- in the law, and the scheme, the writ petitioner club could not have insisted that after the closure of the old scheme (which went unchallenged by it), nevertheless, it had a right to allotment. In holding otherwise,** F **and proceeding to direct Noida to consider the club's applications the impugned judgment erred in law. [Paras 17, 18, 19][606-G-H; 607-A-C, C-D; 608-B-D]**

Delhi Development Authority v. Pushpendra Kumar Jain **[1994] Suppl. 3 SCR 770;** *The Bihar State Housing* G *Board & Ors. v. Radha Ballabh Health Care and Research Institute (P) Ltd.* **(2019) 10 SCC483 : [2019] 12 SCR 444 – relied on.**

2. The High Court had directed that the club's applications should be considered "in accordance with law". Noida proceeded H **to comply with that direction, and reinstate those applications-**

and, furthermore, consider them in accordance with the existing scheme. The High Court, in contempt proceedings, has taken exception to this course of action in an entirely unnecessary and unwarranted manner. Once the legality of closure of the old scheme was undisputed, there was no manner of right inhering with the club, to insist that its claim for any plot had to be considered. If at all, it ought to have applied under subsequent schemes, and waited like other applicants (of that scheme), Noida's interpretation of the High Court's judgment (to consider) in this context, was quite correct. Neither did Noida, in its announcement while closing the old scheme nor in any condition of the 2013 or later scheme, stipulate that old scheme applicants would be dealt with according to the terms of that (i.e. 2010) scheme. This meant that Noida had to consider the club's applications, in accordance with terms of the prevailing scheme. It did so, and incurred – quite unjustifiably- the wrath of the High Court in contempt proceedings. When regulations or schemes, or policies change, applicants for their benefits have no inherent right to be considered under the old policy; rather the consideration has to be under the new *regime,* unless the latter contains an express stipulation to the contrary. [Para 20][608-D-H]

Usman Gani Khatri of Bombay v. Cantonment Board **[1992] 3 SCR 1;** *Howrah Municipal Corpn. & Ors. v. Ganges Rope Co. Ltd. & Ors.* **[2003] Suppl. 6 SCR 1212 – relied on.**

3. The club could not have claimed that its application had to be dealt with in terms of the old scheme, which had ended in 2012. The direction of the High Court, could only have meant that the applications had to be revived, and dealt with the scheme prevailing as on the date of its consideration, i.e. after 31.07.2019. The interpretation placed by the High Court, that there were existing plots, which could have been dealt with under the old scheme is entirely misplaced. In such events, given that the legality of closure of the old scheme attained finality, there was no question of any land or plot being attached or belonging as it were to an old scheme. If any land or plot, or industrial unit were in fact "left-over" it was always up to the development authority

or agency (here Noida) to determine how they are to be dealt with. The directions issued in contempt proceedings, which are subject matter of another appeal, are accordingly held erroneous. [Para 21][610-B-E]

4. The club was allotted a plot, in 2014; it paid substantial amounts. The area of that plot is 4000 square metres. Now, while it is true that this fact could not have been disclosed to the High Court, when filing the writ petition (in 2013), the club, had an obligation to disclose it, during the pendency of writ proceedings. This fact was material, given that the jurisdiction invoked is equitable and discretionary. Furthermore, whether the grievance was justified and well founded, given that state agencies develop and allot such industrial units at prices which are reasonable, and that an applicant subsequently succeeded in securing a plot, are relevant facts, which a court should be appraised of. The failure by the club, to do so, disentitled it to any relief. [Para 22][610-E-G]

Case Law Reference

[1994] 6 Suppl. SCR 770	**relied on**	**Para 18**
[2019] 12 SCR 444	**relied on**	**Para 18**
[1992] 3 SCR 1	**relied on**	**Para 21**
[2003] 6 Suppl. SCR 1212	**relied on**	**Para 21**

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 3616-3618 of 2022.

From the Judgment and Order dated 12.02.2020. 24.08.2020 and 28.08.2020 of the High Court of Judicature at Allahabad in Contempt Application (Civil) No. 8214 of 2019.

With

Civil Appeal Nos. 3619-3620 of 2022.

K. V. Viswanathan, Sr. Adv., Anil Kaushik, Ms. Shashi Sharma, Ms. Arunima Dwivedi, Advs. for the Appellant.

Salman Khurshid, Sr. Adv., Utkarsh Sharma, Ms. Lubna Naaz, Kunal Beri, Advs. for the Respondent.

The Judgment of the Court was delivered by

S. RAVINDRA BHAT, J.

1. Special leave granted, in both petitions. With consent of counsel for parties, the appeals were heard finally. The two appeals arise out of judgments of the Allahabad High Court. The first is dated 31.07.2019[1]; the same appeal impugns an order dismissing the review petition filed against the first impugned judgment, dated 13.04.2021. The second appeal is directed against three orders (dated 12.02.2020, 24.08.2020 and 28.08.2020) issued in contempt proceedings[2], initiated by the respondent, against the appellant.

2. The brief facts of the case are that the appellant (hereafter referred to as "Noida"), published a scheme in 2010 (hereafter "the old scheme") for allotment of industrial plots larger than 2000 sq. meters, in Phases II and III of the industrial area in Noida. The scheme was advertised. Application forms for registration of the available plots were available with a designated bank upon payment of ₹ 5,000/. The indicative price for plots measuring up to 4000sq. mtr. in Phase II was ₹ 5550/- per sq. mtr. and in Phase III for ₹ 5750/- per sq mtr. Under the terms of the scheme as spelt out by the brochure, apart from individuals, partnership firms were also eligible to apply for allotment. The applicants were to submit a processing fee of ₹ 20,000/- and registration money of ₹ 8 lakhs for Phase II plots and ₹ 10 lakhs for Phase III plots. Apart from these conditions, applicants had to furnish a project report, background detail of promoters, audited accounts and balance sheets and other relevant details. Allotment was to be made (per clause 2 (h) (i)) on the basis of interviews of registered applicants, by a screening committee, about the details of the project. The scheme was expressly open ended; therefore, under clause 2(i) in Appendix 1 to the scheme Noida could close it any time.

3. It is the common case of the parties that the club applied to the Noida Authority for two plots. Apparently, Noida decided to terminate the scheme, based upon its assessment of the feasibility of the scheme, in its meeting on 05.07.2012. This decision was published and made known to all concerned including the club through the public domain on 12.07.2012. Thereafter, Noida sought to refund the amount deposited by the club to it.

[1] In Writ-C No.-56046 of 2013

[2] Contempt Application (Civil) No. 8214 of 2019

A 4. The club was aggrieved and approached the Allahabad High Court by filing the writ petition[3] contending that according to its information, Noida received 95 applications of which 65 were rejected and 15 allotments were made. The club urged that it fulfilled all requirements of the scheme and paid processing fee, registration amount, had lodged documents required to be furnished. Therefore, it claimed B that its application deserved to be considered. It also contended that the club was an export house and operating from rented premises, sorely in need of a large facility and was unable to afford commercial rental spaces. It was urged that the Noida disregarded the terms and conditions of its scheme for allotment in that the non-consideration in respect of the C plots under the scheme so far as the petitioner club was concerned was utterly arbitrary. The club claimed several directions including direction to cancel allotments already made and a mandatory direction to consider the petitioner club's application for allotment.

5. Noida had resisted the petition, arguing that once the scheme D was discontinued, the club had no basis to claim allotment. It was also urged that the club was aware of the fact that the scheme could be discontinued at any time, a power which Noida had resorted to, validly. Therefore, it was urged that even if some plots were available, the writ petitioner could not lay claim for allotment of any of them.

E 6. During the pendency of writ petition before the High Court, Noida, launched another scheme (Scheme Code : NOIDA/IP/2013-14/OES/01 – hereafter called "the 2013 Scheme") the club applied under this scheme as well on 9th November, 2013. This matured into an allotment on 17.07.2014- when Noida allotted a plot of 4000 sq. mtr, (tentatively sized plot) @ Rs. 8060/- per sq. mtr. The total premium claimed by F Noida was ₹ 3,46,58,000/-. The club had, by 01.12.2016 deposited ₹ 1,91,83,700/- towards this allotment; it sought by letter dated 04.09.2016 of change in the allotment to M/s. Maria Exim Pvt. Ltd. This request was followed up with the affidavit dated 27.12.2016. This subsequent allotment of a plot under the later scheme was however, not disclosed to G the High Court, before which the complaint of arbitrary non-allotment under the old scheme was pending.

7. The High Court by its first impugned judgment[4] was of the opinion that Noida's failure to call the club's representative for interview,

[3] Writ-C No.-56046 of 2013

H [4] Dated 31.07.2019 in Writ-C No. 56046 of 2013

was not supported by any reason and that its candidature was never considered for allotment. In support of this conclusion the High Court reasoned that candidature or the applications which were registered and were complete in all manner could not have been ignored. In view of this reasoning, the Noida was directed to consider the petitioner's two applications under the scheme by permitting the club to re-deposit the registration amount of ₹ 8 lakhs each in respect of its two applications with Noida within a period of one month and on deposit of such registration amount, the two applications (Application Nos. 284 and 285) were to revive. Noida was directed to consider those applications in accordance with law for the purposes of allotment of the un-allotted remaining plots in Phase – II and III. The High Court held in its judgment that Noida did not dispute that some plots remained unallotted in the scheme. According to the High Court, there were total of 12 such plots.

8. Noida first filed an application for clarification contending that no plots were available under the old scheme and that 27 plots were available under the old scheme, under which 15 were initially allotted. Later all plots were allotted by the end of 2014 under the 2013 scheme. That application (Civil Misc. Modification/Clarification Application No. 17/2020) was dismissed on 01.10.2020. Noida therefore preferred a review proceeding. The High Court by its second impugned order dated 13.04.2021 rejected the Review Petition. The original impugned order dated 31.07.2019 and the rejection of the Review Petition by judgment and order dated 13.04.2021 are the subject matter of a common appeal arising from one Special Leave Petition.[5]

9. The club complained of non-compliance with the original judgment and initiated contempt proceedings. In the contempt proceedings, notice was issued and on 12.02.2020 the High Court recorded that the club's application was deemed eligible and was taken on record. By order dated 12.02.2020 the High Court clarified that in case the main judgment was not complied in the letter and spirit the "opposite party" i.e. the Chief Executive Officer of Noida was to be present in Court. Accordingly, on the next date when the said official was present (i.e. on 24.08.2020) the Court noted that the writ petitioner was supplied a list of plots for exercising his option regarding two plots pursuant to the two applications filed by the petitioner and which were covered by the new scheme issued in January, 2020. Furthermore, the

[5] C. A. No. 3619-3620 of 2022

A Court recorded that the new plots were allotted only in accordance with the new scheme and that two other applicants had been allotted those plots. The court therefore expressed its dissatisfaction and stated that third party rights was being sought to be created to complicate the issue to suit Noida's purposes. These two orders i.e. 12.02.2020 and 24.08.2020 as well as the subsequent order dated 28.08.2020 (which had partly corrected the earlier order of 24.08.2020) are the subject matter of the civil appeal arising out of another common Special Leave Petition,[6] by the Chief Executive Officer of Noida on its behalf.

Contentions of parties

C 10. It is urged by Mr. K.V. Vishwanathan, learned senior counsel, that the impugned judgment dated 31.07.2019 was passed on the basis of a wrong factual statement by one Shri N.K. Singh, an Officer on Special Duty (OSD) of NOIDA in his affidavit dated 10.03.2019 to the effect that eight plots remained unallotted in the earlier scheme, which statement has caused grave prejudice to NOIDA. It is contended that D this officer not only made misleading statements on affidavit, but also facilitated the transfer of the plot, allotted to the club, to another entity. Learned senior counsel for Noida contended that these acts were unauthorized. It was urged that Noida, had before the High Court specifically stated that a show-cause notice dated 12.06.2020 was issued E against the concerned employee i.e. OSD Shri N.K. Singh for making the incorrect statement in his affidavit & recommended disciplinary action against the concerned employee to the Government of Uttar Pradesh. Counsel urged that the High Court erred in observing that it is evident that the affidavit filed in support of the review application lacked necessary pleadings in respect of the exercise of due diligence by NOIDA. It was F further urged that Noida had specifically stated that of 15 allotments were made, by the time the impugned judgment was delivered, there were in fact no plots under the old scheme. Counsel submitted that whenever a scheme is discontinued, the land available with Noida is never kept aside but is utilized in other, newer schemes. Therefore, there G were in fact no unallotted plots; they had been utilized in subsequent schemes. It is submitted that NOIDA keeps on carving new plots and subsequently allots them under different schemes. It had furnished the list of new plots available and not the plots which were available initially and all the 27 plots were allotted by 2014 in different schemes.

H [6] SLP (C) No. 12866-68 of 2020

11. It was argued that the club did not challenge the closure of the 2009-2010 scheme. It rather claimed that Noida acted arbitrarily in not calling its representative for interview, and possible allotment. In fact all registrants were aware that Noida could, in terms of the said scheme, terminate it and refund the amounts received, for any reason. That option was in fact exercised. Counsel highlighted that the scheme was in force barely for two years and very few people were interviewed and granted plots. Since the writ petitioner could not lay claim for a plot, but only a right to be considered, in an extant scheme, the first impugned judgment is erroneous as it proceeds to hold that the club had some right to allotment of a plot.

12. It was urged that the operative direction of the High Court, was only to reinstate the club's applications, and consider them for allotment in accordance with law. Since the cancellation of the old scheme or its closure was not adversely commented, the only manner in which the directions could reasonably be complied with, was to consider the applications under the subsequent- extant scheme. In the scheme – framed in 2020, no applicant can expect allotment on the basis of interview. Allotment of plots is based on the result of draw of lots. The club was considered, but was unsuccessful in the draw of lots. Therefore, the High Court went wrong in holding that the club was entitled to be considered in accordance with the old scheme which was not in existence.

13. Learned senior counsel argued that the club was disentitled to discretionary relief under Article 226 of the Constitution, because it did not disclose the full and true facts. It was contended that the club was allotted a 4000 square meter plot, in 2014, for which it made part payments as well. However, this fact was suppressed from the High Court. Counsel contended that Noida, at the time of conducting its due diligence, recently discovered this fact. Furthermore, it was submitted that this suppression was intentional, and appears to have been facilitated by the said Mr. N.K. Singh.

14. Mr. Salman Khurshid, learned senior counsel for the club, urged that the impugned judgment as well as the judgment of the High Court in review should not be disturbed. It was submitted that NOIDA gave no reason for the closure of the scheme; its affidavit before the High Court did not provide any reason why the club's application was overlooked or why its representative was not called for interview like in the case of other applicants. This was arbitrary conduct which called

A for an adverse order. To this extent, the High Court's order is unexceptionable.

15. It was urged on behalf of the club that the charge of the pressing information, is unwarranted. Learned counsel urged that Noida did not point to any rule or guideline which required the club to disclose B that it had applied under any other scheme before, it applied and was allotted a plot in the scheme framed in 2013-14. In the circumstances, the question of denying relief to it under Article 226 did not arise. It was further argued that the impugned judgment dated 31.07.2019, had to be and was understood by the High Court in contempt proceedings, to mean that the club's application had to be processed in accordance with the C scheme as it existed, in 2009-10 when in fact an application had been made and entertained. In other words, the club's application had to be treated and considered in accordance with the old scheme. This meant naturally that its representative had been called for interview and the application evaluated accordingly. Instead, the Noida chose to unilaterally D treat the application as one under the extant policy of 2020. In terms of the latter, allotment is to be made not on the basis of interview but on the basis of the draw of lots. Mr. Khurshid submitted that this was not the intent or tenor of the impugned judgment. In the circumstances, the contempt proceedings drawn for willful non-compliance were maintainable and the directions issued by the High Court, completely justified.

E

Analysis and Conclusions

16. The terms of the old scheme were noticed in an earlier part of the judgment. Other terms included stipulated that rates indicated were subject to change by Noida [clause 2 (d)]; the area of the plot could be F varied [clause 2 (e)]. Clause 2 (i) read as follows:

> *"This scheme is an open-ended scheme. However, NOIDA reserves the right to close the scheme at any point of time without any notice and without assigning any reasons."*

17. The club's grievance was that its application was not considered G – its representatives were not interviewed. Noida pointed out that it closed or terminated the scheme. In the writ proceeding, the club did not challenge the closure of the scheme; rather its case was that Noida's omission to consider its application for allotment was arbitrary. Once the club accepted the closure of the scheme and did not challenge it, there was no question of its agitating any right or grievance regarding non- H

consideration of its application. The club does not deny that there were other registrants, similarly circumstanced, who did not secure any allotment. They presumably were treated in the same manner as the club was. In the circumstance, the club could not without establishing any discrimination, merely on the strength of closure of the scheme, allege arbitrariness. It is well established that when a policy decision like the closure or termination of a benefit available to a class of persons, is not challenged, the consequence of such closure (which is the impact on the pendency of those wishing to be considered) cannot ordinarily be subject matter of a grievance. What the club had was a *right to be considered for allotment of the plots its applied for, so long as the old scheme subsisted.*

18. In the opinion of this court, an applicant or registrant of a scheme has no right to insist that they should be provided allotment under a scheme. Much depends on the terms of the scheme. In *Delhi Development Authority vs. Pushpendra Kumar Jain*[7] this court had enunciated the applicable principle as follows:

> *"8. Now coming to the other ground, we are unable to find any legal basis for holding that the respondent obtained a vested right to allotment on the drawl of lots. Since D.D.A. is a public authority and because the number of applicants are always more than the number of flats available, the system of drawing of lots is being resorted to with a view to identify the allottee. It is only a mode, a method, a process to identify the allottee, i.e., it is a process of selection. It is not allotment by itself. Mere identification or selection of the allottee does not clothe the person selected with a legal right to allotment at the price prevailing on the date of drawl of lots. The scheme evolved by the appellant does not say so either expressly or by necessary implication. On the contrary, Clause (14) thereof says that "the estimated prices mentioned in the brochure are illustrative and are subject to revision/modification depending upon the exigencies of lay out, cost of construction etc."*

In *The Bihar State Housing Board & Ors. v Radha Ballabh Health Care and Research Institute (P) Ltd*[8] this court again reiterated the same position:

[7] 1994 (Supp3) SCR 770
[8] 2019 (10) SCC483

A *"…the Respondent does not get any right of allotment of a plot merely because it has applied for allotment earlier. The response to an advertisement does not lead to any obligation on the Appellant to allot any plot. Admittedly, there was no allotment in pursuance of the offer submitted by the Respondent. Mere fact that the Respondent had applied for allotment of a plot does not confer any legal or equitable right to seek allotment of any plot."*

B

19. In the absence of any ambiguity- in the law, and the scheme, the writ petitioner club, in this court's opinion could not have insisted that C *after the closure of the old scheme* (which went unchallenged by it), nevertheless, it had a right to *allotment.* In holding otherwise, and proceeding to direct Noida to consider the club's applications the impugned judgment erred in law.

20. The High Court had directed that the club's applications should D be considered "in accordance with law". Noida proceeded to comply with that direction, and reinstate those applications- and, furthermore, consider them in accordance with the existing scheme. The High Court, in contempt proceedings, has taken exception to this course of action- in this court's opinion, in an entirely unnecessary and unwarranted manner. E As held earlier, once the legality of closure of the old scheme was undisputed, there was no manner of right inhering with the club, to insist that its claim for any plot had to be considered. If at all, it ought to have applied under subsequent schemes, and waited like other applicants (of that scheme), Noida's interpretation of the High Court's judgment (to consider) in this context, was quite correct. Neither did Noida, in its F announcement while closing the old scheme nor in any condition of the 2013 or later scheme, stipulate that old scheme applicants would be dealt with according to the terms of that (i.e. 2010) scheme. This meant that Noida had to consider the club's applications, in accordance with terms of the prevailing scheme. It did so, and incurred – quite unjustifiably- G the wrath of the High Court in contempt proceedings. There is authority for the proposition that when regulations or schemes, or policies change, applicants for their benefits have no inherent right to be considered under the old policy; rather the consideration has to be under the new *regime,* unless the latter contains an express stipulation to the contrary.

H

21. In *Usman Gani Khatri of Bombay v Cantonment Board*[9] this court affirmed the decision of the High Court, which held that old rules could not be applied, and that new rules were applicable, for considering applications for sanction of buildings. It was held that

> *"In any case, the High Court is right in taking the view that the building plan can only be sanctioned according to the building regulations prevailing at the time of sanctioning of such building plans. At present the statutory bye-laws published on 30.4.1988 are in force and the fresh building plans to be submitted by the petitioners, if any, shall now be governed by these bye-laws and not by any other bye-laws or schemes which are no longer in force now.*
>
> *If we consider a reverse case where building regulations are amended more favourably to the builders before sanctioning of building plans already submitted, the builders would certainly claim and get advantage of the regulations amended to their benefit."*

Likewise, in *Howrah Municipal Corpn. & Ors. v Ganges Rope Co. Ltd. & Ors*[10]. a similar question arose for consideration. The municipal corporation was required to decide an application for sanction, in a time bound manner, by the court. The applicable rules changed. The corporation decided the application in the light of the amended rules. This court, negativing the applicant's contention that it had a right to be considered under the old rules, held as follows:

> *"20. The provisions of the Act, therefore, contemplate an express sanction to be granted by the Corporation before any person can be allowed to construct or erect a building. Thus, in ordinary course, merely by submission of application for sanction for construction, no vested right is created in favour of any party by statutory operation of the provisions.*
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> *In our considered opinion, by the order of the Court dated 23.12.1993 observing that the petitioner is 'not prevented from applying' for further sanction of additional floors above fourth floor and the 'expectation' expressed in*

[9] 1992 (3) SCR 1
[10] [2003] Supp (6) SCR1212

A *the subsequent order of the Court dated 24.6.1994, from the Corporation to decide the pending application for sanction within four weeks, no vested right in favour of the respondent - company can be said to have been created to obtain sanction on the unamended rules, as they existed on the date of their second application."*

B In the light of the above position in law, it is clear that the club could not have claimed that its application had to be dealt with in terms of the old scheme, which had ended in 2012. The direction of the High Court, could only have meant that the applications had to be revived, and dealt with the scheme prevailing as on the date of its consideration, i.e. C after 31.07.2019. The interpretation placed by the High Court, that there were existing plots, which could have been dealt with under the old scheme is entirely misplaced. In such events, given that the legality of closure of the old scheme attained finality, there was no question of any land or plot being attached or belonging as it were to an old scheme. If D any land or plot, or industrial unit were in fact "left-over" it was always up to the development authority or agency (here Noida) to determine how they are to be dealt with. The directions issued in contempt proceedings, which are subject matter of another appeal, are accordingly held erroneous.

E 22. As noticed earlier, the club was allotted a plot, in 2014; it paid substantial amounts. The area of that plot is 4000 square metres. Now, while it is true that this fact could not have been disclosed to the High Court, when filing the writ petition (in 2013), the club, in this court's opinion, had an obligation to disclose it, during the pendency of writ proceedings. This fact was material, given that the jurisdiction invoked F is equitable and discretionary. Furthermore, whether the grievance was justified and well founded, given that state agencies develop and allot such industrial units at prices which are reasonable, and that an applicant subsequently succeeded in securing a plot, are relevant facts, which a court should be appraised of. The failure by the club, to do so, in this G court's opinion, disentitled it to any relief.

23. For the foregoing reasons, Noida's appeals are allowed; the impugned judgment and orders of the High Court are hereby set aside. There shall be no order on costs.

Devika Gujral Appeals allowed.