



2026:AHC-LKO:72112

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 9739 of 2017

M/S Nalini Khandelwal

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Ministry Industrial
Developm

.....Respondent(s)

Counsel for Petitioner(s)	:	Anurag Singh, Abhinav Srivastava
Counsel for Respondent(s)	:	C.S.C., Ashok Shukla, Utkarsh Srivastava

Court No. - 4

HON'BLE IRSHAD ALI, J.

"न्याय का मूल सिद्धांत यह है कि मुकदमों का एक अंतिम अंत होना चाहिए।

किसी भी व्यक्ति को एक ही कारण के लिए बार-बार मुकदमों के जाल में नहीं फंसाया जाना चाहिए,

क्योंकि अंतहीन मुकदमेबाजी स्वयं में एक अन्याय है।"

"The fundamental principle of justice is that there must be a final end to litigation.

No person should be trapped repeatedly in a web of lawsuits for the same cause of action,

because endless litigation is an injustice in itself."

1. Heard Sri Abhinav Srivastava, learned counsel for the petitioner, learned Standing Counsel for respondent No.1 - State and Sri Utkarsh Srivastava, learned counsel for the respondent No.2 - New Okhala Industrial Development Authority (NOIDA).

2. The present writ petition has been filed on following prayer:

"i. Issue a writ of certiorari or a writ, order or direction in the nature of certiorari quashing the order dated 17.03.2017 passed by the principal secretary department of industrial development, Civil Secretariat Lucknow Uttar Pradesh, contained in Annexure no.1 to this writ petition.

ii. Issue a writ of Mandamus or a writ, order or direction in the nature of mandamus commanding the opposite parties to allot the plot to the petitioner in accordance with the application form as submitted by the petitioner in the reserved category.

iii. Any other order which this Hon'ble Court may deem fit and proper in the circumstances of the case may also be passed.

iv. Allow the writ petition with costs."

3. Factual matrix of the case is that the petitioner is a shareholder and whole-time Director of M/s Charu Apparels Manufacturing Company Pvt. Ltd., having its industrial unit at Industrial Plot No. A-26, Sector-2, NOIDA. Respondent No.2 floated a scheme known as the Residential Plots Scheme, 2006 (1) for allotment of residential plots in Sector-100, NOIDA. The said scheme was opened on 20.04.2006 and was to remain open up to 19.06.2006. Under Clause 1(I)(A)(b) of the scheme, applications were invited from applicants belonging to the prescribed reserved eligible categories.

4. The petitioner was eligible to apply under the industrial category, as the industrial unit in which she was a whole-time Director was situated at Industrial Plot No. A-26, Sector-2, NOIDA. Accordingly, the petitioner applied under the aforesaid scheme on 16.06.2006 under Plot Category-3 in her capacity as Director of the industrial unit.

5. Along with the application form, the petitioner deposited a demand draft of Rs.1,20,000/- drawn on HDFC Bank and submitted all the requisite documents, including the functional certificate dated 01.04.1987 in respect of the industrial unit, Board Resolution authorising the petitioner to apply for the residential plot, list of Directors/shareholders, original photograph of the petitioner duly attested by the bank and certified true copy of the Memorandum and Articles of Association of M/s Charu Apparels Manufacturing Company Pvt. Ltd. The duly filled and attested application form along with the requisite documents and demand draft was submitted through Canara Bank, which duly acknowledged the same.

6. Despite completion of all the requisite formalities, Respondent No.2 published a provisional seniority list in which the petitioner's name was shown at Serial No.504 with the remark that there was "No Status of Applicant in Unit and photo not attached" and consequently she was declared "Not Eligible".

7. Immediately upon coming to know of the aforesaid objection, the petitioner submitted her objection before Respondent No.2 vide letter dated 26.10.2006, enclosing a complete set of the documents submitted along with the original application and specifically pointing out that she was a whole-time Director of the industrial unit.

8. The Managing Director of M/s Charu Apparels Manufacturing Company Pvt. Ltd. also submitted a separate objection vide letter dated 30.10.2006. However, despite the aforesaid objections and the documents furnished by the petitioner establishing her status in the company, Respondent No.2 failed to consider her claim in a proper manner. The petitioner, therefore, submitted another representation/protest dated 09.11.2006, once again enclosing the relevant documents, with copies thereof to the Working Committee and OSD (Residential Plot), NSM Industries.

9. Being aggrieved by the action of the respondents, the petitioner approached this Court by filing Misc. Writ Petition No.63153 of 2006, *Ms. Nalini Khandelwal Vs. NOIDA and another*, wherein this Court vide interim order dated 22.11.2006, restrained the respondents from processing any application for the purpose of allotment in the reserved category. During the said proceedings, the respondents took a stand in their counter affidavit that the petitioner was not a Director of the company as on 31.03.2006, which according to them was a mandatory requirement. The petitioner specifically denied the said assertion in her rejoinder affidavit and stated that she had been appointed as a whole-time Director of the company.

10. This Court, after considering the respective contentions of the parties, finally disposed of the aforesaid writ petition vide judgment and order dated 19.02.2009 directing Respondent No.2 to pass a fresh order after taking into consideration the pleadings, annexures and material available on record and after affording an opportunity of hearing to all affected

parties.

11. In pursuance of the aforesaid order, the petitioner approached the respondent authorities and met them on 24.03.2009. Respondent No.2 required the petitioner to resubmit Form-32 along with an affidavit. In compliance thereof, the petitioner submitted her affidavit and Form-32. However, Respondent No.2, vide order dated 26.05.2009, rejected the representation of the petitioner. Aggrieved by the said order, the petitioner instituted Civil Misc. Writ Petition No.33634 of 2009, *Ms. Nalini Khandelwal Vs. State of U.P. and others*, before this Hon'ble Court.

12. This allowed the aforesaid writ petition vide judgment and order dated 26.11.2011 and quashed the order dated 26.05.2009. This Court specifically held that the cut-off date of 31.03.2006, as relied upon in the order dated 26.05.2009, was misconceived and again directed the respondents to pass a fresh order in accordance with law while taking into consideration the findings recorded by this Hon'ble Court.

13. Thereafter, respondent No.2 passed another order dated 10.09.2012, whereby a new ground was taken that the petitioner had not deposited Form-32 along with the original application. The said ground was contrary to the terms of the brochure, as there was no requirement therein to submit Form-32 along with the application. The only requirement was to furnish evidence establishing the directorship of the applicant, which requirement had duly been complied with by the petitioner by submitting the requisite documents along with her application.

14. The scheme itself was opened on 20.04.2006 and closed on 19.06.2006 and the petitioner had submitted her application on 16.06.2006, i.e. within the prescribed period. The petitioner had also furnished the documents evidencing her status as a whole-time Director of the company. Thus, the subsequent reliance upon non-submission of Form-32 as a ground for rejecting the petitioner's claim was contrary to the requirements of the scheme and the material already submitted by her.

15. The petitioner challenged the order dated 10.09.2012 passed by the Chief Executive Officer, New Okhla Industrial Development Authority (NOIDA), before this Hon'ble Court by filing Writ-C No. 60782 of 2012, wherein this Court, vide order dated 12.02.2016, dismissed the writ

petition with liberty to the petitioner to approach the State Government under Section 41(3) of the U.P. Urban Planning and Development Act, 1973, as incorporated by adoption under Section 12 of the U.P. Industrial Development Act, 1976.

16. In compliance of the aforesaid order dated 12.02.2016, the petitioner filed a revision petition on 16.03.2016 before the Principal Secretary, Department of Industrial Development, Civil Secretariat, Lucknow, Uttar Pradesh, challenging the order dated 10.09.2012 passed by Respondent No. 2. The Principal Secretary, Department of Industrial Development, vide impugned order dated 17.03.2017, rejected the revision preferred by the petitioner under Section 41(3) of the U.P. Urban Planning and Development Act, 1973, as incorporated under Section 12 of the U.P. Industrial Development Act, 1976, primarily on the ground that the petitioner had not submitted Form-32 along with her original application form.

17. The impugned order dated 17.03.2017 is assailed by the petitioner, *inter alia*, on the ground that the requirement of submitting Form-32 along with the application was not prescribed under the brochure of the Residential Plots Scheme, 2006 (1) and the petitioner had already furnished sufficient documentary evidence establishing her status as a whole-time Director of the industrial unit. The petitioner had also submitted the application within the prescribed period and had repeatedly brought the relevant documents to the notice of the respondent authorities.

18. The respondents, despite repeated directions issued by this Hon'ble Court in the earlier proceedings and despite the material available on record, have rejected the petitioner's claim by relying upon a ground which was not part of the original scheme requirements. The petitioner is, therefore, aggrieved by the impugned order dated 17.03.2017 and has been constrained to approach this Hon'ble Court by filing the present writ petition.

19. Submission of Sri Abhinav Srivastava, learned counsel for the petitioner is that the petitioner being a shareholder and whole-time Director of M/s Charu Apparels Manufacturing Company Pvt. Ltd. had applied for allotment of a residential plot under the Sector-100 Residential Plots Scheme, 2006 (1), floated by the NOIDA Authority. The scheme

was opened on 20.04.2006 and closed on 19.06.2006. The petitioner submitted her application under the eligible reserved category of industrialists along with the requisite documents establishing her status as a whole-time Director of the company. However, the application of the petitioner was initially rejected by the respondent No.2 by including her name in the provisional seniority list with the remark "Not Eligible" on the vague and ambiguous grounds of "No Status of Applicant in Unit and photo not attached", despite the petitioner having furnished the requisite documents in support of her claim.

20. He further submits that the opposite parties, in their counter-affidavits, subsequently took the stand that the petitioner was not a whole-time Director of the company as on the cut-off date of 31.03.2006. The said condition was neither contemplated under the original scheme brochure nor could it have been made the basis for rejecting the petitioner's application. The respondents, therefore, sought to introduce an arbitrary eligibility criterion, which was not prescribed under the scheme at the time of submission of the application, thereby subjecting the petitioner to an unwritten and unreasonable restriction.

21. He next submitted that the petitioner challenged the aforesaid rejection before this Court by filing Writ Petition No.33634 of 2009, wherein this Court vide judgment and order dated 26.11.2011, quashed the rejection order dated 26.05.2009 passed by the respondent No.2 holding that the cut-off date of 31.03.2006 relied upon by the respondents was misconceived. This Court further directed the competent authority to pass a fresh order after affording an opportunity of hearing to the petitioner. Thus, the earlier ground adopted by the respondents for rejecting the petitioner's claim was judicially disapproved and the respondents were required to reconsider the petitioner's application in accordance with the terms of the original scheme and the directions issued by this Court.

22. He submits that, despite the aforesaid judgment and order dated 26.11.2011, the respondent No. 2, while passing a fresh order dated 10.09.2012, once again rejected the petitioner's application, this time on an entirely new ground that the petitioner had not submitted Form-32 along with her original application. It is contended that the respondents,

having failed to sustain their earlier objection concerning the cut-off date, subsequently introduced an additional condition which was neither mentioned in the original scheme brochure nor communicated to the applicants at the time of inviting applications. The fresh ground of rejection was, therefore, an impermissible attempt to impose a new procedural requirement retrospectively, thereby frustrating the petitioner's legitimate claim under the scheme.

23. It is further submitted that the petitioner, being aggrieved by the fresh rejection order dated 10.09.2012, approached this Court by filing Writ Petition No.60782 of 2012. The said writ petition was disposed of vide order dated 12.02.2016, granting liberty to the petitioner to avail the statutory remedy of revision under Section 41(3) of the U.P. Urban Planning and Development Act, 1973. The petitioner, accordingly, invoked the revisional jurisdiction of the competent authority, as applicable to the NOIDA Authority under Section 12 of the U.P. Industrial Development Act, 1976. However, the Principal Secretary, Industrial Development, vide order dated 17.03.2017, dismissed the revision, thereby affirming the rejection order dated 10.09.2012 without addressing the fundamental illegality arising from the imposition of an unadvertised condition.

24. Learned counsel for the petitioner vehemently submits that the original scheme brochure did not prescribe any requirement for submitting statutory Form-32 along with the application form. The scheme merely required the applicant to furnish valid documentary evidence establishing the requisite status of directorship in the concerned industrial unit. The petitioner duly complied with the said requirement by submitting a Functional Certificate dated 01.04.1987, a valid Board Resolution, a list of Directors and Shareholders and a bank-attested photograph. These documents were sufficient to substantiate the petitioner's claim and establish her association with the company. In the absence of any express stipulation in the scheme brochure requiring submission of Form-32, the respondents could not have rejected the petitioner's application on the ground of non-submission of such a document.

25. It is contended that the terms and conditions of a public scheme

constitute the governing framework for consideration of applications and must be applied uniformly to all applicants. Once the authority has invited applications by prescribing specific eligibility criteria and documentary requirements, it cannot subsequently introduce an additional condition or impose an undisclosed procedural obligation to the detriment of an applicant who has acted in accordance with the advertised terms. Such an action amounts to changing the "Rules of the Game" after the process has commenced and is contrary to the settled principles of fairness, transparency and non-arbitrariness governing public authorities.

26. In support of the aforesaid contention, learned counsel for the petitioner places reliance upon the judgment of the Hon'ble Supreme Court in the case of **K. Manjusree v. State of Andhra Pradesh**, reported in **(2008) 3 SCC 512**, particularly paragraph 32, wherein the principle that the criteria governing a selection process cannot be altered after the process has commenced has been recognised. It is submitted that the said principle squarely applies to the present case, as the respondents have sought to introduce a new documentary requirement after the petitioner had already submitted her application in accordance with the original scheme brochure.

27. Learned counsel for the petitioner also places reliance upon the Constitution Bench judgment of the Hon'ble Supreme Court in the case of **Tej Prakash Pathak v. Rajasthan High Court**, reported in **(2025) 2 SCC 1**, particularly paragraph 14, in support of the submission that the eligibility criteria and selection conditions must be governed by the applicable rules and cannot be altered arbitrarily during the course of the process. It is argued that the respondents, by introducing the requirement of Form-32, have departed from the conditions originally advertised under the 2006 scheme and have thereby acted contrary to the principles governing public recruitment and selection processes, as applicable to the present allotment scheme.

28. Reliance has also been placed upon the judgment of the Hon'ble Supreme Court in the case of **Delhi Development Authority v. Joint Action Committee, Allottee of SFS Flats**, reported in **(2008) 2 SCC 672**, particularly paragraph 62, to contend that a public authority is required to act within the framework of the governing scheme and cannot act

contrary to the terms and conditions on the basis of which applications were invited. Learned counsel submits that the NOIDA Authority, being a statutory authority, is under an obligation to act fairly, consistently and in accordance with the scheme framed by it and any departure from the prescribed conditions, to the prejudice of an applicant, is liable to be interfered with by this Court.

29. Learned counsel for the petitioner further relies upon the judgment passed by this Court in the case of **Naresh Chandra Gupta v. The Collector, U.P. and Others, Special Appeal No. 1353 of 2008**, particularly page 5 thereof, in support of the contention that the authority cannot introduce conditions beyond those prescribed under the relevant scheme and subsequently use such conditions to defeat the legitimate claim of an applicant. It is submitted that the aforesaid judgments, read together, support the petitioner's contention that the rejection order dated 10.09.2012, founded upon the non-submission of Form-32, is unsustainable in law.

30. It is next submitted that the respondents have adopted inconsistent and contradictory stands at different stages of the proceedings. As specifically highlighted in the rejoinder affidavit, the respondents, having previously adjusted their stand and accepted the petitioner's status as a whole-time Director, have subsequently sought to defeat her claim by raising the hyper-technical objection of non-submission of Form-32 along with the original application. Such inconsistent conduct on the part of a statutory authority is wholly arbitrary and demonstrates a shifting approach towards the petitioner's eligibility. Once the petitioner's status as a whole-time Director stood supported by the documents submitted by her and was no longer the sustainable basis of rejection, the respondents could not have defeated her claim by resorting to an additional condition which was not prescribed under the original scheme.

31. Learned counsel for the petitioner submits that the action of the respondents is violative of Article 14 of the Constitution of India, which guarantees equality before the law and prohibits arbitrary State action. The repeated rejection of the petitioner's application on successive and changing grounds, first by relying upon an erroneous cut-off date and thereafter by introducing the unadvertised requirement of Form-32,

reflects a manifestly arbitrary, unfair and unreasonable exercise of administrative power. It is contended that the petitioner, having submitted the requisite documents in accordance with the terms of the scheme, could not have been subjected to additional and undisclosed conditions at a subsequent stage. The impugned action, therefore, suffers from procedural unfairness and violates the constitutional mandate of non-arbitrariness.

32. Learned counsel for the petitioner further submits that the revisional authority, while exercising its jurisdiction under Section 41(3) of the U.P. Urban Planning and Development Act, 1973, as applicable through Section 12 of the U.P. Industrial Development Act, 1976, was under an obligation to examine the legality, propriety and correctness of the rejection order dated 10.09.2012. However, the Principal Secretary, Industrial Development, while passing the impugned revisional order dated 17.03.2017, failed to examine whether the requirement of submitting Form-32 was actually incorporated in the original scheme brochure or whether the petitioner had otherwise furnished sufficient documentary evidence to establish her eligibility. The revisional authority mechanically affirmed the rejection on the basis of a hyper-technical and unadvertised condition, without addressing the principal grievance raised by the petitioner.

33. It is contended that the revisional authority failed to exercise its statutory jurisdiction in the manner contemplated under law and did not provide any effective redress against the arbitrary action of the NOIDA Authority. The very purpose of the revisional remedy was to ensure that an order passed by the subordinate authority, which suffers from illegality, procedural irregularity or arbitrariness, could be appropriately corrected. However, instead of rectifying the illegality committed by the respondent No.2, the revisional authority perpetuated the same by dismissing the revision without properly examining the petitioner's contentions and the relevant terms of the scheme. Consequently, the revisional order dated 17.03.2017 is also vitiated by non-application of mind and is liable to be quashed.

34. Learned counsel for the petitioner submits that both the rejection order dated 10.09.2012 passed by respondent No.2 and the revisional order

dated 17.03.2017 passed by the respondent No.1 suffer from an error apparent on the face of the record, inasmuch as the petitioner's application has been rejected on a ground which was not part of the original scheme conditions. The respondents have failed to demonstrate any specific provision in the scheme brochure mandating the submission of Form-32 along with the application form. In the absence of such a requirement, the rejection of the petitioner's application solely on that ground is legally unsustainable. It is, therefore, submitted that the impugned orders deserve to be quashed.

35. Learned counsel for the petitioner further submits that the petitioner has been pursuing her legitimate claim since the year 2006 and has been compelled to approach this Court on multiple occasions on account of the successive rejection of her application on different grounds. The earlier rejection order was quashed by this Court vide judgment and order dated 26.11.2011, yet the respondents, instead of considering the petitioner's claim in its true perspective and in accordance with the original scheme, introduced a fresh ground of rejection, which resulted in further litigation. The petitioner, thereafter, availed the statutory revisional remedy in compliance with the liberty granted by this Court vide order dated 12.02.2016. The prolonged litigation and the consequential delay in allotment cannot be permitted to operate to the prejudice of the petitioner, particularly when the delay has arisen from the successive administrative decisions impugned by her.

36. It is further contended that the petitioner had applied for allotment of a residential plot under the Sector-100 Residential Plots Scheme, 2006 (1) and had fulfilled the eligibility and documentary requirements prescribed under the scheme. The petitioner has, therefore, acquired a legitimate expectation that her application would be considered fairly, transparently and strictly in accordance with the terms and conditions originally advertised. The respondents, being public authorities, are bound to honour the framework of the scheme and cannot deny the petitioner's claim by introducing an additional requirement, which was never disclosed at the time of inviting applications. In the facts and circumstances of the case, the petitioner is entitled to lawful consideration of her application without being subjected to any retrospective or extraneous condition.

37. Learned counsel for the petitioner submits that in view of the prolonged pendency of the dispute and the repeated litigation arising from the arbitrary rejection of the petitioner's application, the petitioner is entitled to an appropriate consequential direction for allotment of the residential plot originally applied for under the 2006 scheme. It is submitted that the petitioner cannot be made to suffer financially on account of the delay attributable to the successive decisions of the respondents. Accordingly, the allotment, if directed, ought to be made at the original premium rate applicable under the 2006 scheme, rather than at the prevailing rates, as any other course would unjustly burden the petitioner for no fault on her part.

38. It is further submitted that, in the event the original plot applied for by the petitioner is no longer available on account of the passage of time during the pendency of the proceedings, the respondents may appropriately be directed to allot an alternative residential plot of the same type, category, size and nature within Sector-100, NOIDA, at the original premium rate applicable under the 2006 scheme. Such a direction would protect the petitioner's legitimate claim while ensuring that the consequences of the prolonged litigation do not deprive her of the benefit for which she had originally applied.

39. Learned counsel for the petitioner, therefore, submits that the impugned revisional order dated 17.03.2017 passed by the respondent No.1 and the rejection order dated 10.09.2012 passed by the respondent No.2 are arbitrary, unreasonable and contrary to the terms of the Sector-100 Residential Plots Scheme, 2006 (1), besides being violative of Article 14 of the Constitution of India. It is urged that the respondents have repeatedly changed the grounds of rejection and have sought to impose an additional documentary requirement, which was not part of the original scheme. The petitioner has already furnished the relevant documents to establish her claim and the rejection of her application on the basis of the non-submission of Form-32 is, therefore, not sustainable in law. In support of his submission, he placed reliance upon following judgments:

A) K. Manjusree Vs. State of Andhra Pradesh & Another; (2008) 3 SCC 512.

B) Tej Prakash Pathak & Others Vs. Rajasthan High Court & Others; (2025) 2 SCC 1.

C) Delhi Development Authority and Another Vs. Joint Action Committee, Allottee of SFS Flat and others; (2008) 2 SCC 672.

D) Naresh Chandra Gupta VS. The Collector, U.P. and others; Special Appeal No.1353 of 2008.

40. On the other hand, learned counsel for respondent No.2 submitted that the petitioner had applied under the Residential Plots Scheme, 2006 (1) floated by NOIDA for allotment of residential plots in Sector-100, NOIDA. The scheme was open from 20.04.2006 to 19.06.2006. Although the petitioner submitted her application on 16.06.2006, mere submission of the application within the prescribed period did not confer any vested right of allotment upon her. Her claim was necessarily subject to scrutiny and verification of the eligibility conditions prescribed under the scheme.

41. He further submitted that the petitioner claimed eligibility under the industrial category on the basis of her alleged status as a whole-time Director of M/s Charu Apparels Manufacturing Company Pvt. Ltd. having its industrial unit at Industrial Plot No. A-26, Sector-2, NOIDA. However, the relevant question before the competent authority was whether the petitioner had satisfactorily established her status in the industrial unit on the basis of the documents furnished along with the original application and whether she fulfilled all the conditions of the scheme.

42. He next submits that the provisional seniority list prepared after scrutiny of the applications specifically recorded against the petitioner's application that there was "**No Status of Applicant in Unit and photo not attached**", and consequently the petitioner was declared "**Not Eligible.**" The said determination was not arbitrary but was based upon scrutiny of the application and the material available with the authority.

43. He submitted that the petitioner, thereafter, submitted objections dated 26.10.2006 and 09.11.2006 and the company also submitted an objection dated 30.10.2006. However, mere filing of objections and subsequent production of documents could not, by itself, create an entitlement in favour of the petitioner. The competent authority was required to

determine the eligibility of the applicant with reference to the conditions of the scheme and the material furnished in support of the original application.

44. Learned counsel for respondent No.2 further submits that the petitioner had earlier approached this Hon'ble Court by filing Writ Petition No.63153 of 2006. The said writ petition was ultimately disposed of vide judgment and order dated 19.02.2009 directing the competent authority to pass a fresh order after considering the pleadings, annexures and material available on record and after affording opportunity of hearing to the affected parties. Significantly, this Hon'ble Court did not direct allotment of any plot to the petitioner nor did it declare the petitioner eligible for allotment.

45. Pursuant to the aforesaid order, the petitioner was afforded opportunity and she approached the authorities on 24.03.2009. The petitioner was required to furnish Form-32 along with an affidavit for the purpose of verification of her status as Director. The petitioner submitted the same. Thereafter, the competent authority passed order dated 26.05.2009 rejecting her claim.

46. He further submits that the aforesaid order dated 26.05.2009 was challenged by the petitioner in Writ Petition No.33634 of 2009, wherein this Hon'ble Court, vide judgment and order dated 26.11.2011, quashed the said order and directed reconsideration of the matter. The respondents duly complied with the directions of this Hon'ble Court and reconsidered the claim of the petitioner.

47. It is also submitted that upon such reconsideration, the competent authority passed the subsequent order dated 10.09.2012. The petitioner challenged the said order in Writ-C No.60782 of 2012, wherein this Hon'ble Court, vide order dated 12.02.2016, dismissed the writ petition while granting liberty to the petitioner to avail the statutory remedy of revision under Section 41(3) of the U.P. Urban Planning and Development Act, 1973, as incorporated under Section 12 of the U.P. Industrial Development Act, 1976.

48. He submitted that in pursuance of the aforesaid liberty, the petitioner preferred a revision dated 16.03.2016 before the Principal Secretary,

Department of Industrial Development, Government of Uttar Pradesh. The revisional authority considered the matter and vide order dated 17.03.2017, rejected the revision.

49. He next submits that the order dated 17.03.2017 cannot be said to have been passed mechanically. After the writ proceedings, the matter was examined with reference to the record and the information obtained from NOIDA regarding the applications which had been rejected upon scrutiny. The record disclosed that the petitioner's application was among the applications, which had been rejected on account of the applicant's status in the industrial unit not having been established and the requisite supporting material not having been furnished with the original application.

50. It is further submitted that after the order dated 08.05.2017 passed in the present writ petition, the answering respondent sought a report from Opposite Party No.2/NOIDA regarding the applications which had been rejected. The report contained particulars of various applicants whose applications had been rejected for different deficiencies. In the case of the petitioner, the record specifically mentioned the objection that there was **"No status of applicant in unit"** and that the requisite photograph was not attached.

51. Learned counsel submits that the record further disclosed that the petitioner had not furnished Form-32 along with the original application. The said document became relevant for verification of the petitioner's claim regarding her status as Director of the industrial unit. The competent authority, therefore, could not simply presume the petitioner's eligibility on the basis of her subsequent assertion or documents furnished at a later stage.

52. It is submitted that the petitioner's contention that Form-32 was not specifically mentioned in the brochure cannot be considered in isolation. The requirement before the authority was to verify the applicant's eligibility and status in the industrial unit. Form-32 was relevant documentary material for such verification. Therefore, consideration of the absence of Form-32 cannot be treated as introduction of an altogether new eligibility condition, as alleged by the petitioner.

53. Learned counsel submits that the petitioner's application was scrutinized along with other applications and the same standard of verification was applied to the applicants claiming benefit under the industrial category. The respondents were required to ensure that only those applicants who satisfactorily fulfilled the prescribed eligibility conditions were considered for allotment. Allotment of a residential plot under a reserved category cannot be claimed merely because an application was submitted and the requisite registration amount was deposited.

54. It is further submitted that the petitioner's reliance upon the fact that she had submitted a functional certificate, Board Resolution, list of Directors/shareholders, Memorandum and Articles of Association and other documents does not, by itself, establish that the competent authority was bound to accept her claim. The question was whether the documents accompanying the original application were sufficient to establish her eligibility in accordance with the scheme and whether the petitioner's status in the industrial unit stood duly verified.

55. Learned counsel submits that the earlier orders passed by this Hon'ble Court did not confer any substantive right of allotment upon the petitioner. The orders dated 19.02.2009 and 26.11.2011 merely required reconsideration of the petitioner's claim in accordance with law, whereas the order dated 12.02.2016 granted liberty to the petitioner to avail the statutory revisional remedy. The respondents acted in compliance with each of the aforesaid orders and reconsidered the petitioner's claim at the appropriate stages.

56. It is also submitted that the impugned order dated 17.03.2017 was passed by the competent revisional authority after considering the material placed before it and the decision of NOIDA. The order is, therefore, a speaking and reasoned order and does not suffer from any jurisdictional error, perversity or violation of the directions issued by this Hon'ble Court.

57. Learned counsel submits that the respondents have consistently maintained that the petitioner's claim could not be accepted in the absence of satisfactory documentary proof establishing her status in the industrial unit on the basis of the original application. The stand of the respondents

has remained consistent with the record and cannot be characterized as arbitrary merely because the petitioner disputes the conclusion reached by the competent authority.

58. Learned counsel submits that the impugned order dated 17.03.2017 was passed in exercise of statutory revisional jurisdiction after the petitioner had availed the remedy specifically made available to her by this Hon'ble Court. There is, therefore, no procedural impropriety in the passing of the impugned order. The petitioner has failed to demonstrate that the revisional authority acted without jurisdiction or ignored any binding direction of this Hon'ble Court.

59. The allegation that the respondents repeatedly changed their stand is also denied. The various orders were passed at different stages pursuant to directions of this Hon'ble Court and upon reconsideration of the material placed before the authorities. The fact that different aspects of the petitioner's eligibility were examined at different stages cannot, by itself, render the final decision illegal.

60. Learned counsel finally submits that the petitioner has not established any legal or enforceable right to allotment of the plot in question. The application was scrutinized in accordance with the scheme, the petitioner was afforded opportunities at different stages, the matter was reconsidered pursuant to the orders passed by this Hon'ble Court, and the statutory revision was thereafter considered and rejected by the competent authority. Consequently, the challenge to the order dated 17.03.2017 and the consequential prayer for allotment of the plot are liable to be rejected.

61. I have considered the submissions advanced by learned counsel for the parties and perused the material on record as well as law reports cited by learned counsel for the petitioner.

62. To resolve the controversy involved in the matter, relevant portion of the judgments relied upon by learned counsel for the petitioner are being quoted below:

A) K. Manjusree Vs. State of Andhra Pradesh & Another (Supra):

"32. In Maharashtra SRTC v. Rajendra Bhimrao Mandve [(2001) 10 SCC 51 : 2002 SCC (L&S) 720] this Court

observed that "the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced". In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game had been played and the results of the game were being awaited. That is unacceptable and impermissible."

B) Tej Prakash Pathak & Others Vs. Rajasthan High Court & Others (Supra):

"14. In various judicial pronouncements, the law governing recruitment to public services has been colloquially termed as "the rules of the game". The "game" is the process of selection and appointment. Courts have consistently frowned upon tinkering with the rules of the game once the recruitment process commences. This has crystallised into an oft-quoted legal phrase that "the rules of the game must not be changed midway, or after the game has been played". Broadly speaking these rules fall in two categories. One which prescribes the eligibility criteria (i.e. essential qualifications) of the candidates seeking employment; and the other which stipulates the method and manner of making the selection from amongst the eligible candidates."

C) Delhi Development Authority and Another Vs. Joint Action Committee, Allottee of SFS Flat and others (Supra):

"62. It is well-known principle of law that a person would be bound by the terms of the contract subject of course to its validity. A contract in certain situations may also be avoided. With a view to make novation of a contract binding and in particular some of the terms and conditions thereof, the offeree must be made known thereabout. A party to the contract cannot at a later stage, while the contract was being performed, impose terms and conditions which were not part of the offer and which were based upon unilateral issuance of

office orders, but not communicated to the other party to the contract and which were not even the subject-matter of a public notice. Apart from the fact that the parties rightly or wrongly proceeded on the basis that the demand by way of fifth instalment was a part of the original Scheme, DDA in its counter-affidavit either before the High Court or before us did not raise any contra plea. Submissions of Mr Jaitley in this behalf could have been taken into consideration only if they were pleaded in the counter-affidavit filed by DDA before the High Court."

D) Naresh Chandra Gupta VS. The Collector, U.P. and others (Supra):

"After having heard the rival submissions made by the parties, we proceed to consider the first question, which arises before this Court, i.e. whether the selection proceeding initiated under the existing rules, which was amended after initiation of the selection proceedings, will be governed by the amended rules or under the old rules.

The controversy in this regard is very well settled by this Court as well as by the Apex Court in number of decisions. In the latest judgment in the case of P. Mohanan Pillai vs. State of Kerala and Ors., reported in AIR 2009 SC 2840, the Apex Court has held that once a selection proceeding has been initiated and during the pendency of the selection proceeding, if rule is amended, that will not effect the selection proceeding already going on. Meaning thereby once the game has started, the rules of the game cannot be changed. Thus, the argument advanced by the learned Standing Counsel on the point that the selection should have been made in accordance with the amended rules is ruled out and has no substance. The relevant paragraph 8 of the aforesaid judgment is being quoted below:

"8. Why such a decision had been taken after the publication of the result of the written examination and after calling 36 candidates for interview is not known. Why the Company

intended to enlarge the zone of consideration from 1: 3 to 1: 4 has also not been disclosed. Why the cut-off mark was also lowered remained a mystery. It may be that in a given situation, a decision of the State may be changed, but therefore good and sufficient reasons must be assigned. The Company failed to do so. The decision taken in this behalf smacks of arbitrariness. It prejudiced the candidates like the appellant. It is now well-settled that ordinarily rules which were prevailing at the time, when the vacancies arose would be adhered to. The qualification must be fixed at that time. The eligibility criteria as also the procedures as was prevailing on the date of vacancy should ordinarily be followed."

63. In Writ Petition No.63153 of 2006; Ms. Nalini Khandelwal Director of M/s Charu Appearels Manufacturing Company P. Ltd. Vs. New Okhla Industrial Development Authority and another, this Court vide orders dated 22.11.2006 & 19.09.2009 directed as under:

22.11.2006:

"Tag and list this petition along with records of writ petition no.60412 of 2006, Samakant Srivastava and another Vs. The New Okhla Industrial Development Authority and others.

In view of the order dated 07.11.2006 passed by the court in the aforesaid petition, respondents are restrained to allotment in reserved category."

19.09.2009:

".....

Having heard learned counsel of the parties at length and after going through the records, We feel that it will be in the interest of justice that CHO (NOIDA) is directed to reconsider the matter of the petitioner in the light of the allegation made in the writ petition and the annexures filed therewith and pass fresh order within ten days from the date of production of certified copy of this order together with the copy of the writ

petition alongwith annexures and the counter affidavit after giving opportunity to all the parties affected. It is made clear that the petitioner shall appear before CEO NOIDA on 16th March 2009.

Till the disposal of the matter by the CEO (NOIDA), interim order granted by this Court in this writ petition shall remain operative.

With these directions, this writ petition is disposed of."

64. In compliance of the aforesaid order, the petitioner submitted her directorship proof along with an affidavit before the respondent - NOIDA, which was rejected vide order dated 26.05.2009, which got challenged before this Court in Writ-C No.33634 of 2009, wherein following direction was issued vide order dated 26.11.2011:

"Order impugned dated 26.5.2009 which is based on the fact that the position of the petitioner will be considered on the basis of the cut off dated 1.e. 31.3.2006 appears to be misconceived in nature.

As per the conditions of the Brochure for the purpose of allotment of plot Clause 1 (II) (A) (b) prescribes that, in case application being made by Proprietor/Partner/Managing Director/Whole-time Director of the Industrial unit the following conditions must be fulfilled: four conditions are incorporated, there is no mention about the cut off date regarding eligibility of the candidate. Factually last date of making application was 19.6.2006. The petitioner became the Director on 6.5.2006 prior to the last date. Having so, we find order impugned cannot be sustained and therefore, it is quashed. The respondents are directed to consider the case of the petitioner once again giving fullest opportunity of hearing and by passing reasoned order thereon within a period of one a month from the date of communication of this order.

With the above observations, and order, the writ petition is

disposed of.

However, no order is passed as to costs."

65. In compliance of the aforesaid order, respondent - NOIDA passed an order on 10.09.2012, relevant portion of which is being extracted below:

"मा० उच्च न्यायालय के आदेशो के अनुपालन में याचिकाकर्ता द्वारा दिनांक 18.6.2012 को अपना प्रत्यावेदन तथा आदेश की प्रति कार्यालय में प्रस्तुत की।

आबंटी को दिनांक 25.7.2012 के पत्र द्वारा उपरोक्त याचिका में मा० उच्च न्यायालय द्वारा पारित आदेश दिनांक 26.11.2011 के क्रम में दिनांक 1.8.2012 को दोपहर 12:00 बजे सुल्नवाई हेतु अधोहस्ताक्षरी के कक्ष में समस्त साक्ष्यो सहित उपस्थित होने हेतु कहा गया।

अतः आबंटी याची ने अपने पत्र 1.8.2012 द्वारा अवगत कराया गया कि उन्होंने मै० चारा अप्रेल्स प्रा० लि० की निदेशक होने का. प्रपत्र उन्होंने दिनांक 25.9.2007 को आवासीय भूखण्ड विभाग में प्रेषित किया था।

मेरे द्वारा प्रत्रावली पर उपलब्ध प्रत्यावेदन सम्बन्धित अभिलेजो व अन्य प्रपत्रों का अवलोकन किया गया।

श्रीमती नलिनी खंडेलवाल ने औद्योगिक श्रेणी में आवासीय भूखण्ड योजना 2006 (1) में भूखण्ड श्रेणी 03 (250 से 300 वर्ग मी) के लिये आवेदन किया था। सम्बन्धित योजना की विवरण पुस्तिका के अनुसार दिनांक 31.3.2006 कार्यशील घोषित औद्योगिक इकाईयों को ही भूखण्ड आबंटन का प्राविधान था औद्योगिक श्रेणी हेतु सफल आवेदको का भूखण्डवार चयन वरिष्ठता के आधार पर किया गया था औद्योगिक इकाई की कार्यशील होने की तिथि अथवा आवेदक को औद्योगिक इकाई ने निदेशक रिकार्ड पर लिये जाने की तिथि जो भी बाद में हो , के आधार पर वरिष्ठता निर्धारित की जानी थी आवेदक ने आवेदन के समय निदेशक होने 7 सम्बन्धी रजिस्ट्रार ऑफ कम्पनीज में दाखिल फार्म 32 की प्रति अथवा औद्योगिक इकाई में नियुक्त होने की सूचना सम्बन्धी कोई दस्तावेज़ प्रस्तुत नहीं किया था। जिस कारण योजना की शर्तों के अनुसार आवेदक को अर्ह नहीं माना गया।

आवेदक द्वारा आवेदन के समय निदेशक सम्बन्धी रजिस्ट्रार ऑफ कम्पनीज में दाखिल फार्म 32 की प्रति अथवा औद्योगिक इकाई में नियुक्त होने सम्बन्धी कोई

दस्तावेज़ प्रस्तुत न करने के कारण आवेदक को सफल आवेदको की भूखण्डवार चयन की गई सूची में वरिष्ठता के आधार पर अर्ह न होने के कारण आवेदक को योजना में अर्ह नहीं माना गया। तदनुसार आवेदक का प्रत्यावेदन निस्तारित किया जाता है।"

66. Against the order dated 10.09.2012, the petitioner preferred Writ-C No.60782 of 2012, which has been dismissed by making following observations:

"Heard learned counsel for the parties.

If the petitioner is not satisfied with the order of the New Okhala Industrial Development Authority (NOIDA) refusing to consider the petitioner's application in the matter of allotment of plot with reference to the scheme applicable, the petitioner has the remedy of approaching the State Government under Section 41 (3) of the U.P. Urban Planning and Development Act, 1973, which stands incorporated by adoption under Section 12 of the U.P. Industrial Development Act, 1976.

The present writ petition is dismissed with liberty to the petitioner to seek his remedy as aforesaid."

67. In compliance of the order aforesaid, the petitioner preferred statutory revision petition before the Principal Secretary, Industrial Development, Civil Secretariat, Lucknow, which has also been rejected vide order dated 17.03.2017 in the following manner:

"8. उपरोक्त तथ्यों के आलोक में सम्यक विचारोपरान्त यह पाया गया कि याची द्वारा भूखण्ड के आवंटन हेतु प्राधिकरण को दिये गये आवेदन पत्र के साथ फार्म -32 संलग्न नहीं किया गया था। इस तथ्य की पुष्टि याची के प्रश्नगत प्रत्यावेदन में प्रस्तुत आधार जिसका उल्लेख उपरोक्त प्रस्तर-5A के रूप में किया गया है, से भी होती। उक्त के अतिरिक्त उपरोक्त तालिका के अनुसार प्राधिकरण द्वारा ऐसे अन्य मामलों जिनमें आवेदन पत्र के साथ संगत अभिलेख प्रस्तुत नहीं किये गये थे, में भी आवेदक को अर्ह न पाये जाने का निर्णय लिया गया है, उनमें से तालिका के क्रमांक-10 के रूप में याची का प्रकरण भी सम्मिलित है।

9. उपरोक्त वर्णित तथ्यों के आधार पर याची के प्रकरण को तथ्यहीन एवं बलहीन

पाते हुण्याची का प्रत्यावेदन दिनांक 1603.2016 एतद्वारा निरस्त करते हुए
निस्तारित किया जाता है।"

68. Being aggrieved by the aforesaid order, the instant writ petition has been instituted by the petitioner.

69. From perusal of the pleadings of learned counsel for the parties and the material brought on record, the controversy which falls for determination in the present writ petition is essentially whether the respondents could reject the petitioner's application submitted under the Residential Plots Scheme, 2006 (1), on the ground that Form-32 had not been enclosed with the original application, when admittedly the said document was not specifically prescribed as a mandatory document in the brochure and when the petitioner had furnished other documents in support of her status as a whole-time Director of the industrial unit. The further question is whether, after commencement of the scheme and submission of the petitioner's application within the prescribed period, the respondents could introduce an additional documentary requirement and apply the same retrospectively to defeat the petitioner's claim.

70. At the very outset, it is necessary to observe that merely submitting an application under a public allotment scheme or depositing the prescribed registration amount does not, by itself, confer an indefeasible or vested right of allotment upon an applicant. Learned counsel for respondent No.2 is correct to this limited extent. An applicant is necessarily required to satisfy the eligibility conditions prescribed under the scheme and the competent authority is entitled to scrutinize the application and verify the documents furnished by the applicant. However, such power of scrutiny and verification cannot be enlarged into a power to introduce a new eligibility condition or mandatory documentary requirement, which was not prescribed in the scheme when the applications were invited and submitted.

71. The distinction between verification of an existing eligibility condition and introduction of a new eligibility/documentary condition is of considerable significance in the present case. If the brochure had specifically stipulated that Form-32 was required to be filed along with the application, the respondents would undoubtedly have been entitled to

examine whether the petitioner had complied with such requirement. Likewise, if the scheme had prescribed a particular document as the exclusive mode of proving the status of a Director, the respondents could have insisted upon its production. However, the respondents have not been able to demonstrate from the scheme brochure any such stipulation making Form-32 a mandatory document to be submitted along with the original application.

72. On the contrary, the order dated 26.11.2011 passed by this Court in Writ-C No.33634 of 2009 assumes decisive significance. This Court, while examining the very claim of the petitioner under the same scheme, specifically considered Clause 1(II)(A)(b) of the brochure and recorded that where the application was made by a Proprietor/Partner/Managing Director/Whole-time Director of the industrial unit, four conditions were prescribed and there was no mention of any cut-off date regarding the eligibility of the candidate. This Court further noticed that the last date for making the application was 19.06.2006 and that the petitioner had become a Director on 06.05.2006, i.e. prior to the last date of submission of the application. On that basis, the order dated 26.05.2009 was quashed and the respondents were directed to reconsider the matter.

73. The aforesaid finding cannot be treated as an inconsequential observation. It was rendered in proceedings arising directly out of the petitioner's claim under the very same Residential Plots Scheme, 2006 (1) and it specifically examined the conditions contained in the brochure. The respondents, therefore, were required to reconsider the petitioner's claim consistently with the findings already recorded by this Court. They could not, after the earlier ground of rejection based upon the alleged cut-off date had been expressly found to be misconceived, substitute the same by introducing another ground which itself had no foundation in the original brochure.

74. The order dated 10.09.2012 passed by respondent No.2 demonstrates that, after the earlier ground relating to the cut-off date had failed, the petitioner's claim was rejected principally on the ground that she had not submitted a copy of Form-32 filed before the Registrar of Companies or some other document evidencing her appointment as Director along with the original application. The revisional authority has, thereafter, affirmed

the same reasoning in its order dated 17.03.2017. Thus, the ultimate rejection of the petitioner's claim rests upon the alleged non-submission of Form-32.

75. The question, therefore, is not whether Form-32 could ever be relevant for verifying the directorship of the petitioner. It obviously could be relevant as a piece of evidence. The real question is whether the respondents could convert such a document, which was not prescribed as a mandatory document under the brochure, into a condition precedent for consideration of the petitioner's application after the process had already commenced and the application had already been submitted. In the considered opinion of the Court, the answer must be in the negative.

76. The petitioner submitted her application on 16.06.2006, whereas the scheme was open from 20.04.2006 to 19.06.2006. The application was, therefore, unquestionably submitted within the period prescribed by the respondents themselves. Along with the application, the petitioner furnished, *inter alia*, the Functional Certificate dated 01.04.1987, Board Resolution, list of Directors/shareholders, Memorandum and Articles of Association and other supporting documents. These documents were not disputed as fabricated or forged. The respondents have also not demonstrated that the brochure prescribed Form-32 as the sole or indispensable evidence of Directorship.

77. The submission of learned counsel for respondent No.2 that the competent authority was merely verifying the petitioner's status and that Form-32 was, therefore, relevant, does not answer the fundamental issue. The power to verify an eligibility condition does not authorise the authority to rewrite the conditions of the scheme. If the documents furnished by an applicant were considered insufficient, the authority could have called upon the applicant to furnish additional material for verification, as indeed happened subsequently. But such subsequent production of Form-32 cannot retrospectively establish that its submission along with the original application was an essential condition when no such condition existed in the brochure.

78. The chronology of events also assumes significance. Initially, the petitioner's application was rejected by describing her as "Not Eligible" on the ground that there was "No Status of Applicant in Unit and photo

not attached". Thereafter, during the earlier litigation, the respondents relied upon the alleged requirement that the petitioner ought to have been a Director as on 31.03.2006. That ground was found misconceived by this Court in its order dated 26.11.2011. Thereafter, respondent No.2 shifted to the ground of non-submission of Form-32 along with the original application. Thus, the petitioner has been confronted with successive grounds of rejection at different stages.

79. The Court is conscious that the mere fact that an authority assigns different reasons at different stages would not, by itself, render every subsequent order illegal. However, where the subsequent ground is itself founded upon a condition which was not contained in the scheme at the time applications were invited, such shifting of the basis of rejection assumes legal significance. The respondents cannot be permitted to cure one unsustainable ground of rejection by discovering another condition which was never communicated to the applicant and was not part of the advertised scheme.

80. The principle that **the Rules of the Game cannot be changed after the game has started** is no longer *res integra*. In the case of *K. Manjusree v. State of Andhra Pradesh (Supra)*, the Hon'ble Supreme Court, after noticing the earlier authorities, emphatically held that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process has commenced and observed that changing the rules after the game has been played is impermissible. Though the said decision arose in the context of a selection process, the underlying constitutional principle is one of fairness, transparency and non-arbitrariness in exercise of public power.

81. The same principle has subsequently been considered by the Constitution Bench of the Hon'ble Supreme Court in the case of *Tej Prakash Pathak & Others v. Rajasthan High Court & Others (Supra)*, wherein the Court explained that the expression "Rules of the Game" broadly encompasses the conditions governing eligibility as well as the manner in which eligible persons are to be considered. The significance of the principle lies not merely in the technical distinction between recruitment and allotment, but in the broader proposition that a public authority cannot invite persons to participate in a process on one set of

declared conditions and thereafter, to the prejudice of a participant, alter those conditions midway.

82. The said principle is attracted with equal force to the facts of the present case. The Residential Plots Scheme, 2006 (1) was a public scheme floated by a statutory development authority. The respondents invited applications from persons belonging to specified categories by prescribing eligibility conditions and documentary requirements. The petitioner acted upon the terms of that public invitation and submitted her application within the prescribed period. Once the process had commenced on the basis of the declared conditions, the respondents were bound to consider the petitioner's application in accordance with those conditions. They could not subsequently impose an additional mandatory requirement and then reject the application for failure to comply with that subsequently evolved requirement.

83. The decision of the Division Bench of this Court in the case of *Naresh Chandra Gupta v. The Collector, U.P. and Others (Supra)*, relied upon by learned counsel for the petitioner also supports the aforesaid conclusion. The Court, relying upon the settled law of the Hon'ble Supreme Court, reiterated that once the selection process has commenced, the rules governing the process cannot be altered during its pendency. The expression that "once the game has started, the rules of the game cannot be changed" embodies the fundamental requirement that all participants must be governed by the same declared framework.

84. Equally relevant is the judgment of the Hon'ble Supreme Court in the case of *Delhi Development Authority v. Joint Action Committee, Allottee of SFS Flats (Supra)*, wherein the Hon'ble Supreme Court held, in the context of an allotment scheme, that a party cannot at a later stage, while the scheme is being acted upon, impose terms and conditions which were not part of the original offer and which were not communicated to the affected persons. The principle assumes particular relevance here because the present case also concerns a statutory authority which invited applications under a publicly notified scheme and thereafter sought to defeat the petitioner's claim by relying upon a requirement which was not shown to have formed part of the original offer.

85. The aforesaid judgment is particularly apposite because the present

controversy arises not out of a purely private arrangement but from a public allotment scheme framed and administered by a statutory authority. Such an authority is required to act fairly, transparently and consistently with the terms on which it invited applications. The authority cannot reserve to itself an unstructured power to introduce additional conditions at a later stage and apply them selectively or retrospectively to applications already submitted.

86. The contention of learned counsel for respondent No.2 that the petitioner has no vested right in the allotment is, therefore, of no assistance to the respondents. The petitioner is not claiming that the mere filing of her application automatically created an indefeasible right to a plot. Her claim is that her application was required to be considered under the terms of the scheme as they existed when she applied and that the respondents could not reject her application by imposing a condition which was not prescribed at that time. There is a material distinction between a 'right to automatic allotment' and a 'right to fair consideration in accordance with the declared terms of the scheme'. It is the latter right which has been infringed in the present case.

87. Similarly, the fact that the earlier orders of this Court did not themselves direct allotment of the plot does not justify the subsequent rejection of the petitioner's claim on an impermissible ground. The orders dated 19.02.2009/19.09.2009 and 26.11.2011 required the respondents to reconsider the petitioner's claim in accordance with law. The liberty granted vide order dated 12.02.2016 enabled the petitioner to avail the statutory revisional remedy. None of those orders authorised the respondents to introduce a new condition, which was absent from the original scheme.

88. The respondents were, therefore, required to reconsider the petitioner's claim within the four corners of the scheme and the findings already recorded by this Court. The direction to reconsider was not a licence to restart the process on an entirely new and undisclosed eligibility criterion. Reconsideration necessarily meant reconsideration in accordance with the governing scheme and the law declared by this Court.

89. The submission that Form-32 was required merely for verification also cannot justify the impugned action. If the respondents were

genuinely of the view that the documents accompanying the application required further verification, they could have called for the necessary document. In fact, after the order dated 19.02.2009/19.09.2009, the petitioner furnished Form-32 along with an affidavit. The respondents, therefore, cannot simultaneously rely upon the subsequent production of Form-32 for verification and reject the petitioner's original application retrospectively on the ground that the same document had not accompanied the application in 2006.

90. More importantly, the order dated 26.11.2011 had already clarified the relevant legal position concerning the eligibility of the petitioner under the scheme. This Court specifically recorded that the brochure did not prescribe the alleged cut-off date of 31.03.2006 and noticed that the petitioner had become a Director on 06.05.2006, prior to the last date for submission of the application. The respondents could not, after the said finding, indirectly achieve the same result by insisting upon a documentary condition which was not part of the brochure.

91. The impugned revisional order dated 17.03.2017 also does not satisfactorily meet this fundamental objection. The revisional authority has recorded that Form-32 was not attached with the original application and has referred to other cases in which applications were rejected for want of relevant documents. However, the material question was not whether other applications had also been rejected for deficiencies. The question was whether 'Form-32 was a mandatory document under the petitioner's scheme and whether its non-submission with the original application lawfully rendered the petitioner ineligible'. The revisional authority has not demonstrated any specific clause of the brochure making Form-32 a mandatory condition precedent.

92. The reference in the impugned order to other applicants whose applications were allegedly rejected for want of relevant documents also does not cure the defect. Uniform application of an unlawful or undisclosed condition cannot make that condition lawful. Equality requires that similarly situated applicants be treated alike, but it does not authorise a statutory authority to impose a condition which was never part of the governing scheme.

93. The respondents' reliance upon the provisional seniority list

containing the remark "No Status of Applicant in Unit and photo not attached" is also insufficient to sustain the impugned orders. The said provisional remark itself was the subject matter of objection by the petitioner, who repeatedly furnished documents establishing her status. The existence of an adverse provisional remark cannot be treated as conclusive proof of ineligibility, particularly when the petitioner was entitled to have her objections and supporting documents considered by the competent authority.

94. The Court also finds substance in the submission of learned counsel for the petitioner that the respondent authorities have adopted a shifting approach. Initially, the petitioner was declared ineligible on the ground of absence of status in the unit and non-attachment of photograph; subsequently, the respondents relied upon the alleged cut-off date of 31.03.2006; after that ground was quashed by this Court, the respondents proceeded upon the non-submission of Form-32. Such successive grounds, particularly when the later ground is not traceable to the original brochure, demonstrate that the petitioner has been denied consideration on a basis which was not part of the framework under which she participated in the scheme.

95. The doctrine of legitimate expectation also operates in the limited and appropriate sense that the petitioner was entitled to expect that her application would be considered according to the conditions publicly declared by the authority. Legitimate expectation does not mean that the petitioner acquired an absolute right to allotment. It does, however, mean that a public authority cannot arbitrarily depart from the declared framework to the detriment of a person who has acted upon that framework.

96. The conduct of the respondents must also be examined in the context of Article 14 of the Constitution of India. A statutory authority is not entitled to act on considerations which are arbitrary, unreasonable or extraneous to the scheme. The petitioner submitted her application within time, deposited the prescribed amount and furnished documentary material in support of her claim. If the authority considered some further document necessary, it could have sought the same in the course of verification. But converting such further document into an indispensable

condition for eligibility, without demonstrating that the brochure so required, amounts to an unreasonable exercise of administrative power.

97. It is equally significant that the petitioner has been litigating the matter since 2006. The delay has not arisen because of any inaction on her part. She approached this Court whenever an adverse decision was taken, complied with the directions issued by the Court and thereafter pursued the statutory remedy when liberty was granted. The petitioner cannot now be deprived of the benefit of the scheme merely because the proceedings have consumed a considerable period of time, particularly when such delay has substantially resulted from successive orders passed by the respondent authorities and the consequent judicial proceedings.

98. The respondents cannot be permitted to take advantage of the passage of time caused by their own successive decisions. To hold otherwise would result in a situation where an applicant, whose claim was required to be considered under the 2006 scheme, would ultimately lose the benefit of that scheme merely because the authorities rejected her claim successively on grounds which did not survive judicial scrutiny. Such a consequence would not only be inequitable but would effectively reward an erroneous administrative process.

99. The Court is also of the view that the principle laid down in the case of *K. Manjusree, Tej Prakash Pathak, Delhi Development Authority (Supra)* and *Naresh Chandra Gupta (Supra)* is not being mechanically imported into the present case. The common principle emerging from these judgments is that a public authority which has initiated a process on the basis of declared conditions must adhere to those conditions and cannot, after the process has commenced, alter the substantive eligibility or documentary requirements to the prejudice of a participant. The present case falls squarely within that principle.

100. The doctrine "**Rules of the Game cannot be changed, once the Game has started**" is, therefore, fully attracted to the facts of the present case. The "Game" in the present matter is the process of consideration of applications under the Residential Plots Scheme, 2006 (1). The rules of that process were contained in the scheme brochure. The petitioner entered the process by submitting her application on 16.06.2006 in accordance with those declared conditions. The respondents could

certainly scrutinize and verify the petitioner's claim, but they could not, after commencement of the process, transform Form-32 into a mandatory condition of eligibility when no such requirement has been demonstrated from the brochure.

101. Once the authority invites applications on the basis of a particular set of terms and conditions, fairness requires that all applicants be judged by the same declared standard. Permitting the authority to subsequently introduce an additional requirement would not only prejudice the applicant but would also destroy certainty and transparency in public schemes. An applicant cannot be expected to comply with a condition which the authority itself did not prescribe when the application was invited.

102. The impugned order dated 17.03.2017, therefore, suffers from a fundamental error of approach. Instead of examining whether the petitioner's application complied with the conditions actually prescribed in the scheme and whether the documents furnished by her were sufficient to establish her status, the revisional authority treated non-submission of Form-32 with the original application as determinative. The authority has not pointed out any provision of the brochure, which made such submission mandatory. Consequently, the very foundation upon which the revision has been rejected cannot be sustained.

103. The consequential order dated 10.09.2012 passed by respondent No.2 is equally unsustainable. It was passed after this Court had already quashed the earlier rejection based upon the alleged cut-off date and directed reconsideration. The subsequent order could not lawfully introduce another condition not contained in the scheme. Since the order dated 17.03.2017 merely affirms and perpetuates the defect contained in the order dated 10.09.2012, both orders are liable to be quashed.

104. This Court is not oblivious of the submission of respondent No.2 that the petitioner has no absolute right to allotment merely by virtue of having submitted an application. However, once it is found that the rejection itself is founded upon an impermissible condition, the petitioner cannot be left without an effective remedy. A public authority cannot defeat a lawful claim by repeatedly rejecting it on grounds which are subsequently found to be legally unsustainable and then contend that,

because of the passage of time, no effective relief can now be granted.

105. The appropriate relief must, therefore, balance the petitioner's entitlement under the original scheme with the practical consequences arising from the passage of time. The petitioner had applied for a plot in the prescribed category under the 2006 scheme and had deposited the requisite amount. Her claim was not rejected on the ground that she was otherwise outside the category of eligible applicants; rather, it was ultimately rejected on the basis of non-submission of Form-32 along with the original application, which this Court finds to be an impermissible ground in the facts of the present case.

106. In these circumstances, the petitioner deserves to be granted the benefit of consideration under the original Residential Plots Scheme, 2006 (1). Since the respondents' own successive decisions have consumed the intervening period, the petitioner cannot reasonably be directed to participate afresh in a subsequent scheme or be subjected to the rates prevailing today. Such a direction would effectively place the petitioner in a position for which she was not responsible and would deprive her of the benefit of the original scheme on account of the respondents' own action.

107. For the reasons recorded hereinabove, this Court is of the considered opinion that the petitioner has succeeded in demonstrating that the impugned revisional order dated 17.03.2017 is founded upon an erroneous interpretation and application of the conditions of the Residential Plots Scheme, 2006 (1). The consequential order dated 10.09.2012 passed by respondent No.2, insofar as it rejects the petitioner's application solely on account of non-submission of Form-32 with the original application, suffers from the same legal infirmity. Both the orders are, accordingly, liable to be interfered with under Article 226 of the Constitution of India.

108. In view of reasons recorded above, the writ petition succeeds and is **allowed**.

109. The impugned order dated 17.03.2017 passed by the Principal Secretary, Department of Industrial Development, Civil Secretariat, Lucknow, in exercise of revisional jurisdiction under Section 41(3) of the U.P. Urban Planning and Development Act, 1973, as applicable to the

NOIDA Authority through Section 12 of the U.P. Industrial Development Act, 1976, is hereby **quashed**. The consequential order dated 10.09.2012 passed by respondent No.2/NOIDA is also **quashed**.

110. The respondents are directed to reconsider and give effect to the petitioner's application submitted on 16.06.2006 under the Residential Plots Scheme, 2006 (1), in accordance with the terms and conditions of the original scheme, without insisting upon Form-32 as a mandatory document merely because the same was not annexed with the original application and without applying any eligibility condition which was not prescribed under the scheme at the relevant time.

111. In case the original plot/category applied for by the petitioner is available, the respondents shall allot the same to the petitioner in accordance with the original scheme, subject to completion of the remaining lawful formalities, at the original premium/rate applicable under the Residential Plots Scheme, 2006 (1), after adjustment of the amount already deposited by the petitioner.

112. In the event the original plot is found to be genuinely unavailable for allotment, the respondents shall, instead, provide/allot to the petitioner an alternative residential plot of the same type, category, size and nature, preferably in Sector-100, NOIDA, or at a comparable location, at the original premium/rate applicable under the Residential Plots Scheme, 2006 (1). The petitioner shall not be compelled to pay the enhanced/current rate merely on account of the passage of time during which her claim remained under consideration before the respondent authorities and this Court.

113. Such alternative relief is warranted not as a concession but as a necessary consequence of the finding that the petitioner's application was dealt with on the basis of an impermissible additional condition. Otherwise, the respondents would effectively benefit from the very delay occasioned by the successive rejection orders, whereas the petitioner, despite having approached the Court and pursued every available remedy, would suffer the entire financial consequence of such delay.

114. It is clarified that the respondents shall undertake only such verification as is legitimately permissible under the original scheme and

shall not reject the petitioner's claim on the ground that Form-32 was not filed with the original application, nor on the basis of the cut-off date of 31.03.2006, which issue already stands dealt with in the judgment and order dated 26.11.2011 passed by this Court. The respondents shall also take into consideration the documents already furnished by the petitioner and the findings recorded herein.

115. The aforesaid exercise shall be completed by the respondents expeditiously, preferably within a period of eight weeks from the date of production of a certified copy of this order. The respondents shall communicate a reasoned decision to the petitioner within the aforesaid period and shall ensure that no fresh ground, condition or requirement, inconsistent with the original scheme or this judgment, is introduced to defeat the petitioner's claim.

116. Before parting, it is necessary to observe that a statutory authority entrusted with administration of a public allotment scheme is expected to act with fairness, transparency and consistency. Once a scheme has been publicly notified and applications have been invited thereunder, the authority must adhere to the conditions declared by it. The authority cannot alter the framework of the scheme to the prejudice of an applicant after the applicant has acted upon the terms of the original scheme. The principle that "**The Rules of the Game cannot be changed, after the Game has started**" is, therefore, not confined to a technical rule of recruitment; it is a facet of the broader constitutional requirement of non-arbitrariness and procedural fairness in State action.

117. There shall be no order as to costs.

(Irshad Ali,J.)

September 29, 2026

Adarsh K Singh