

HARYANA HOUSING BOARD ACT 1971 (AS EXTENDED TO CHANDIGARH)

The Haryana Housing Board Act, 1971 (As extended to Chandigarh) (See Chd- Admn. Gaz, Part (Extra) dard 13-3-1973 page 34-35) NO. GS.R. 7 In exercise of the powers conferred section 87 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Central overnment hereby extends to the Union Territory of Chandigarh, the Haryana Housing Board Act, 1971 (I-laryana Act 20 of 1971) as in force in the State of Haryana at the date of this noti fication, subject to the following rmodifications. An Act to provide for measurers to be taken to deal and sati"" 'he need of housing accommodation. Be it enacted by the Legislature of the State of Haryana in the Twenty- second year of the Republic of India as follows : [Statement of Objects and Reasons Next to food and clothing, housing is the basic OF mankind. The housing problem has become serious on account of the phenomenal increase in population. Rapid industrialisation has led to the congestions in urban areas. The concentration of almost all industries in urban areas and the comparative high wages paid to the factory workers coupled with the'lack of sumcient opportuni- ties in the rural areas have resulted in a large scale shift of population from vil- lages. With the object of easing the housing problem by constructing more houses and raise standards in the types of houses, the State Government have been implc- menting various housing schemes sponsored by the Government OF India, Under these schemes financial assistance nn the shape of loans as well as grants is given to the employers, local bodies, individuals, and co-operative societies of individuals and industrial workers. The loan with interest at the rate payabic to the Govern- ment of India plus 1/2 per centum as administrative Charges is recovered in 15/25 annual equated instalments. Since the formation of the State of Haryana Rs. I .57 crore have been so disbursed

2. To tackle the stupendous problem of housing sufficient ftns are required.The funds, which are bemg allocated each year in the elan and out of GI-C. funds are vcLY meager with the result that the problem continues, To meet the increas- ing demands for houses, Government resources alone arc not sufficient. To'supplc- ment Government rcsources it was, therefore, imperative to mobilise additional resources by raising loans and • debentures for housing schemes as well as to secure loans out of Central Revolving Fund, which is being created by tho Gov- ernment of Indin with Rs. 200 crores

3. With a view to achieve the aforesaid object the matter was considered in the conference of ministers for Housing, Urban Development and Town Planing held at Bangalore from 18th to 20th June, 1969.The consensus of opinion was 1, Sec I-Tawana Goyt. Gaz (Extra) 1971 a' Page 122 [487 J 488 Hnrynnn I-rousing Board Act, 197t (as entendvd LD Chandigarh) that the State Housing Boards Rte the best agencies for tentative and opeedy imblementation ofthe houeings programmes. Accord ingly, it is proposed to constitutc a Klaryana State Housing Ooaa. i [enoe the Haryana I-lousing Board Bilk 1971.]

CHAPTER 1 PRELIMINARY 1. Shor' title, artem and commencement- (1) This Act may be called the Havana Housing Board Act, t 971 (as extended to Chandigarh). (2) extends to tho whole ofthe *LUnion 'lörntorv ot Chandigarh . (3) ft shall come into fone on such date as tho [Admini8trator may by notification appoint ia this behalf. COMMENTARY Excessive delegation - Notification - "tension of the Act to Chandigarh - The notification issued on 15.12. t 986 by die Central Governjnent under Section 87 ofthe Punjab Re-organisation Aet, 1966 was challenged by a batch of appeals on the ground of excessive deleytlon and abdleadlnn or effacement legislative powers and concept of vocuum - After a detailed discussion en the various au- thoritiG9 on the subject and mainly retying upon Re Delhi Laws Act, 1951 SCR 747 it was held by the Hon'ble Supreme Court that the said provision or law is constitutionally valid and is not repugnant to existing law - Extension of Pumiab Aet, 1985 to Union Territory Chandigarh does with the •xieting law in Union Territoty - There bc;ngonly notification under Section the quog- tion ofsuoccessive notification docs not - All the appeala diz:niwgd_, upholding the decision Of Full Bench ofPunjab and I laryana L igh Couutt in 1988 (IRR 430 • Ramesh Birch und vlhers v. Unton of India and others. 19&9 IRR 399 S.C. Dclegntlon of poweF - Once it is held that the delegation of a power to extent a present exieting IBW is justified a power to extend future laws is a neces- sa corollary - Romesh u Union U India and ol*ers. • 1989, HRR 399 Extension df laws -It was eontendgd by the Appellant's counsel that ex- tengion•ofthe laws ofanotllér State to Chandigarh is permi#ible so longu there is a qf.laws .øn any particul.r *subject within tho Union tlörritmy gnd a trunSplan!atioirof jaw .frdm clscwhcrÖ. i' neither hcgc±ary nor valid - 'Repelling iHe contentøon 'was held •.Lhat lone thø pr6yisipnS0f. tre•extendea _lnw

are-hgt. tg a.p.APt dfPailianeii\$ (ii foréQ,iâ thé.Uniorr Territo*y, construe the' södpe• .87, in, the rix•irigted-• manners :suggested by couhs'et':-• andothers, 1989 3991Sc.- Definitions.—.. In this Act, unless tho context otherwioe requires. (a) "adjoining area" means such arca u may bc spvgified to be an aüining area under section 31; (aaa "Ad ministrator" means the Administrator ofthe Union Territory of handigarh appointed by Ehe President under Article 239 ot the Constimtion;l (b) "Board" means the • [Housing Board, Chandigarh] established •nd• constltuted under section 3; • Subs. by Chd, Admn. Gaz Notitiegtion dnt•d '3-3-1975 at page J4•3S I. [nsened by Chd. Admn. Gaz Notificaüon dated 13-3•t97S at page 34-33 Haryana Housing Board Act, 1971 (as extended to Chundigarh) 489 (e) "Board premises" moane any premi896 bolonging to or vesting in the or talon on by the or entruet.d tho Board under this Acl för management and use mr the purinses of this Act; (d) "%uildingmatGtiaIs" means such or articles as arc specffled by the • [Ad"iioistratorl by notification to be building materials foc purposes of this Act; "Chairman" means tho Chairman of the Board; [(ff) "Chief Executive omcer" means the Chief Executive Officer of the Board] ; (8) "competent authority" meuns uny person authorised by the • [Administrator), by notification, to perform the funet;uns uf Ebe competent m lthoriLY under chapter VI tar such awa as may tee epeuified in the notification; (h) "housing means a housing scheme made under this Act; (i) "Land" includes benefits to e.tiw out of land and th inga ettached to the earflt or permanently fanened to anything attached to the earth ; G) "10081 authority" 'Ethe ChiefAdmInistrator exercising powers of a Municipality Or any runelionart thcaof under section (2) Of section 7-A orthe Capital of Porunb (Development und Regulation) Act, 1952 (Punjab ACL 27 Of 1952) or G Gram PATtehayat constituted under the Punjab Gram Panchayat Aot. 1952 (Punjab Act 4 0? 1953), or a Panchay9L Samiti or 4 Zila Parfahad constituted under the Purüab Panchaynt Snrnitiee and Zila Parishads Act, 1961 (Punjab Act 3 of 1961), or an Improvement Trust constituted under the Put'jab Town Impmyement Act, 1922 (Punjab Aet 4 of 1922) • (k) "Member" means a member of the Board ind indudes thc 2KCbairman and Chiet Executive Officer] ; 8 I "premises" mean: land, any building or partofa buHdIngand Includage— i gardens, grounds and out-houses, if any, appertaining to sugh building or part ora building; and (li) ally fiLtin aftiKed to such building or part nfa building for the more benoficiarqoyment thereof; (m) "prescribed means pregeeibed by rules; (n) "programme" means the annual housing programme prepared by the • Board under 23; (o) ' "Regulations" means regulations made under sa.:tion 74; (p) "rent" means the amount payable to the Board in cospcot of the occupation of the Board 's prem ise.9 and includes tho charges for water and electricity payable in. respect of water mnd electricity used or oonaumed in the pernises; (q) "Seoretary•• means the Secretary of the Board; (r) em•lbunal" means the Trihnnal speeihed under section 46; and (s) "yeat ".oneans the year commencing on the 1st dey of April and ending on the 31st day of Marol'. • Subs. by Chd. Admn. aam Natincnlion dnted 13-3• 191S at page 34-35 1. Inserted by Aet270? 1980 te Chd. vide Clad. Ad"ln. On.z (extra) dated 2-4.1991 2. Subs. by ' Ht Aet 27 Of 1980 extended to Chd. vide Chd. Admn. Gu. (extra) dated 2-4-199 t 490 Haryana Housing Board Act, 1971 (as extended to Chandigarh)

ESTABLISHMENT OF THE BOARD

3. EstablWtment and constitution Board. - (1) With effect from such date, as the • [Administrator] by notification appoint in this behalf, thete shall be established for carrying out the purposes of this Act a Board to be known as "the •tHousing Board, Chandigarh)". with headquarters at such place the • LAd- ministrator] may speci&. O) The Board shall, by the name aforesaid, be a body corporate having perpetual succession and a common seal, and, subject to any restriction by or under this Act or the rules made thereunder, shall have the power to acquire, hold, administer and tracwfet property. movable or imrnovable. and to enter into eon- tracts, and shall by the said name sue ot be used and do all such things as are necessary for which it is constituted. (3) For the purposes of this Act and the Land Acquisition Act, 1 894 thg Board shall be deemed to be a local authority. Explanation.- The purpose of this Act referred to in sub-section (3) includes the management and use ot lands and buiEding belon;ing to or vesting iu the Board under or for the purposes of this Act and the exercense of its rights over and with respect to such lands and buildings for the purposes of this Act, L The Board shall oonsist ofa Chairman, a Chief Executive Officer and seven other members appointed by the AdminlstNtor]. (S) The '[Chairmari, the Chief Executive Officer] or a mehtber may at any time resign his office by submitting his resignation to the '[Administrator] Provided that the rcsignation shall not take effect until it is accepted. (6) Until the Board is established and constituted in accordance with the provisions of the preceding sub-sections, the • [Administrator] may constitute a Board gonsisting of one person, who shall be an •tomcer employed In connection with the affairs of the Union Territory of Chandigarh], to be appointed by the •

[Administrator]. and a Board so constituted shall, as from the commencement of] be deemed to be the Board established and constituted this Act a i for the purpose of carrying out all the provisions of this Act

4. Now-applicability of Eas Punjab Urban Rent Restriction Act 1949.- The Easi Punjab Urban Rent Restriction Act, 1949, shall not apply nor Shall be deemed to have ever applied, to any land or building belongin vesting in the Board underor for the purposes of this Act, and as Bgainst tke Board to any tenancies or other like relationship created by the Board in tespect of such land or buil!ling but shall apply to any land or building get to the Board, COMMENTS Applicability of Rent-Ait -'Allotnient gfhouses rnÅde&y HousipE Bond Authorities on Hiro Purchp.sé Basis, Provisions Of Rent. Control Act would - applicable to the allottppe and-his tenants dr sub An can: induet tenant in the allotted prémisses*- S±tion 4 orthe Act is no barto the applicabilit+ of E.P. Rent Act - UayKaShyap Smt, Mohini Nijhawan, 2004 H.R.R. 387 F.B. isions of the Act are applicable to the houses allotted under Haryana Housing Board Act, 1971 (As to Chandigarh)- [t is apparent prov isions of Section 4 ofthe Act read with Regula:ions 42, 44 and 45 ofChandigarh Housing Board (Allotment, Management and Sale onenerricnls) Regulation, 1979 • Subs. by Ch-d. Admn. Gaz Nottdcalion dmted 13•3-1975 at page 34-33 1. subs. by Act27 1960 to Chd. vide Cbd. Adm- Gaz (extra) dt.,24-1991 2. Omitted by Chd. Admn. cuz Notification gated 13-3-197582 34-35 Haryana Housin% Doard Act, 1971 (as extended to Chandigarh) 491 - The relationship between the Board gnd allottee would bc thar ofan owner and tenants - AlioILee of Housing Board has a right to induet a sub-tenant and relationship between the allottee (tenant) and his sub-tenant would be govemed by provisions of E. P. Rent Act • M/f Bhatia Co-operative Iluusjng Society LimitedScase A.I.R. 1953 S.C. 16 distinguished - Damyanti Bhalla\$ case 1999 H.R.R. 464 over-ruled Åiay Kashyap v. Smt. Mohini Nijhawøn, 2004 (1) H.R.R. 387 F.B. F,Rtoppe1 Section 116 orthe Evidence Act prohibits a tenant oran immov- able property during his tenancy to deny tlts title ofhis landlord - Once thc tenant is perulitted to take up tho pleu of application ofSection 4 of the Mousin Board Act it would actually mean that heis crmitted t. deny the titte of tandlorå which is not pennissible under section I o? the Evidence Att unless possession is surrendergd by tenant - VasudevS ease 2002 (2) S.C.C. SO followed Ajay Kashyap v. snr. Mohini Njjhawan, 2004 (t) {I,R.R. 387 Non-payment of rent - the Rent Controller ordervd tenant to be evi0ted for non-paymentl of rent - In appeal order was reversed with the plea that pre- misas being allotnlent Of Chandigarh Housing Board, Punjab, Rent Aet was not applicable - The finding OCCourt below IS not correct in view of Ajay Kashygp' case 2004 H.R,R. 387 F:B.- Midc which jt.!Ogrnegt delivered In Mrs, Damyanti Bhaila& casb 1999 H.R.R.' 464 been oven-ruled - Impugned order cannot be suzetatned - Revision accepted Ruma Sharma V Mehar Chand, 2004(1) H.R.R- IS. Leave of absence ef Chairman and Chief ODcer. • The Administrator may, from time to time, yant to the Chairman and the Chief Execu- twe Officer such leave ag may be admtssible under the rules made under this Act and any person whom the Aaministcator appoints to Ret for the Chairman or Chief Executive Officer during such absence on leave shall, while \$0 acting, be deemed, Cor all purposes of this Acts to be the Chnlrman or the Chief Exeeutive Officer or as the ease may be.) 6. Disquatncarinn.e, - (I) Aperson shall be disquai ified for being appointed or for continuing as the Chairman or metnber of the Board, ffhe, - a) holds any office or place of profit under the Board: b is ofunsound mind? c is an undischarged Insolvent; has directly or indirectly by himsetfor by any partner, any share or interest in any contract or employment With, by or on behalf of the Board ; (e) ig a DirGGtor or Secretaw, Manager or othqr salaried omcer of any inoorporated eonupany which has any share or interest in any comcact or employment by or on behalt•of, the Board; or (D has been conViotgd of any offence involving moral turpitude. it(g) in the opinion ofthe (Administrator) - 8) is otherwise unfit to continue a member.] Suh by did: Admn. Gaz Notificatioãdated at page 34-3\$ 1. Suba by Agt27 ot 1980 extended to Chd. vide Chd. Adm. (exLN) dt, 2-4. (997 2. by 8 of 1973 published an 234-1973 492 Haryana Housing Board Act, 1971 (as extended to Chandigarh) (2) A person shall not be disqualified under elause (d) or c]ause (e) ot sub- section (I) or be deemed to have any share or interest in any contract or employ- ment within the meaning orthe said clause, by reason only of his or the incorpo- rated company of which he is a Director, Seeætary, Manager or other salaried omcer, having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted. (3) A person shall not also be disqualified under etause (d) or clause (e) Of sub-section or be deemed to have any shaæ or interest in any incorporato company wh has any sharc or interst ia any contract Or employment With, by or Otl behalf of, the Board, by reason only of his being a shareholder Ot such company: Provided that such person discloses to the • (Administrator] the nature and extgnt Of the shares held by him

1. Terms of office and conditions of service. (1) Every member shall hold office for a period of three years from the date of his appointment: provided that after the expiry of the period of his appointment, a person shall be eligible for reappointment as member. (2) Every member shall receive such salary and allowances as may be prescribed. (3) The salary and allowances to the member shall be paid from the fund of the Board and such salaries and allowances and other conditions of service shall be such as may be prescribed. [I-A. {Chairman, Chief Executive Officer and other members} to hold office during of Administrator. - Notwithstanding anything contained in section 3 or section 7 or any other provision of this Act the Chairman, Chief Executive Officer and other members of the Board, shall hold office during the pleasure of the Administrator]

8. Filling of vacancies. (1) If a vacancy occurs in the office of (Chairman, Chief Executive Officer or other member] by death, resignation, removal, disqualification or otherwise, the vacancy shall be filled by the [Administrator] by appointing a new [Chairman, Chief Executive Officer or other member] to that office. (2) A [Chairman, a Chief Executive Officer or any other member] appointed to fill the vacancy shall, notwithstanding anything contained in section 7, hold office for the unexpired portion of the term of his predecessor

9. Proceedings presumed to be good and valid - No disqualification Of, or defect in the appointment of, any person acting as a [Chairman, a Chief Executive Officer] or a member shall be deemed to vitiate any act or proceeding of the Board if such act or proceedings is otherwise in accordance with the provisions of this Act

10. Temporary absence of members. - If any member of the Board other than the Chairman and the Chief Executive Officer] is by infirmity or otherwise rendered temporarily incapable of performing his duties or is absent or on leave or on any other ground not resulting in the cessation of his term of office the Administrator may appoint another person to officiate for him and perform duties under this Act, or any rule or regulation made thereunder. • Subs. by Qd. Adm'. Notification 13-3-1975 at page 34-35 1. Inserted by Hr. Act 20 of 1979 extended to Chd. vide Chd. Adm. (exec.) dt. 2-4-1991 2. substituted by Hf. ACC27 extended to Chd, vide Chd- Gaz (extn) 2-4-1991 at 333 Haryana Housing Board Act, 1971 (as extended to Chandigarh) 493 IL Officers and servant of Board - (1) The [Administrator] may appoint a Secretary of the Board on such terms and conditions of service as it may deem fit. (2) The Board may create such other posts and appoint such other officers and servants thereof as it may consider necessary for the efficient discharge of its duties: (Provided that the previous sanction of the Administrator shall be obtained for this purpose in respect of such categories of posts as may be specified by him time to time by notification.) (3) Subject to the provision of sub-section the conditions of service, functions and duties of the officers and servants of the Board shall be such as may be determined by regulations

12. Provident Fund. (1) The [Administrator] shall establish a Contributory Provident Fund for the officers and servants of the Board and such Provident Fund (hereinafter called "the Fund") shall notwithstanding anything contained in section 3 of the Provident Fund Act, 192', be deemed to be a Government Provident Fund for the purposes of the said Act. (2) The Board shall in respect of each of its employees who is a subscriber to the Fund, pay into the Fund such portion of the contribution in such manner as the [Administrator] may, from time to time, determine

13. General disqualification of officers and servants. - No person who has directly, indirectly, by himself or his partner or agent, any share or interest in any contract. by or on behalf of the Board* or in any employment under, by or on behalf of the Board* otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board

14. Appointment of Committees. - Subject to any rules made under this Act, the Board may, from time to time, and for any particular local area appoint one or more committees for the purpose of discharging such duties or performing such functions as it may delegate to them and any such committee may discharge such duties or perform such functions with due regard to the circumstances and requirements of that local area. IS. Meetings of Board. The Board shall meet and shall from time to time make such bye-laws with respect to the day, time, place, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely: - (a) an ordinary meeting shall be held at least once in three months; (b) the Chairman may, whenever he thinks fit, call special meetings; (c) Every meeting shall be presided over by the Chairman and in his absence by any member chosen by the members of the Board for the purpose

ion; (d) the quorum for every meeting shall be 'one-half of the number of members actually serving for the time being; (e) all questions at any meeting shall be decided by a majority of the members present and voting and in the case of equality of votes, the person presiding shall in addition to his office as a member, have a second or casting vote; and (D) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose and a copy of such minutes shall be to the [Administrator] in the department concerned. * Subs. by Chd. Admn- Gaz. Notification 13-3-1975 e 34-35 E. Subs.' Hr. Act IO to v\dc Chd.*dlin, (cxErR) dt. 24-1-1991 2. mns,ted by No. published on 23-4-1973 494 Haryana [Housing Board Act, 1971 (as extended to Chandigarh) 16. Association of persons with Board. - (1) The Board may associate . with itself, any person whose assistance it may deem fit carrying into effect Act. with the Board.undpr•eüb-seotioh (1) for any purpose Shall' have' the right to take part in the meetings Of the Board relevant to that purpose; but shall not have the right to vote.- (3) The Administrator may, by order, depute its representatives to attend any meeting Of the Board, on such items or subjects as the • [Administrator] may specify, but such representatives shall not have the right to vote

11. Power to make contracts.- 'The Board may enter into and perform or require the performance Of all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act. {18. Execution - (1) Every contract shall be made in the name of the Board by the Chief Executive Officer or such other officer of the Board as may be authorised by it : Provided that no contract involving an expenditure of twenty lakhs rupees or more shall be made without the previous sanction of the • [Administrator].} (2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate. (3) Every contract '[for and] on behalf of the Board shall, subject to the provisions of this section, be entered into, in such manner and form, "may be prescribed. (4) A contract not made or executed as provided in this section and the rules made thereunder shall not be binding on the Board. COMMENTARY Appointment of Chairman - Where the appointment of the Chairman was for three years as mentioned in the notification under S. 3 of the Act. Subsequently the notification was withdrawn. It was held that the Chairman was working properly without suffering any disability during his tenure as such was entitled to complete the full tenure and an order to withdraw the notification was quashed - S.S. Vidya Chandigarh Administration and others. 1991 (1) Rev- L.R. 25 '[19. (Omitted) CHAPTER in HOUSING SCHEME 20. of Board to undertake Housing Schemes. - Subject to the provisions of this Act and subject to the control of the • [Administrator], the Board may incur expenditure and undertake works in any area for the framing and execution of such housing schemes as may consider necessary from time to time or' as may be entrusted to it by the • [Administrator]- 21. Matters to be provided for by Housing Scheme. - Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely (a) acquisition by purchase, exchange or otherwise of any property necessary for or by the execution of the scheme;- (b) acquisition by purchase, exchange or otherwise of any land, division of the same into plots and the sale thereof and developing it or otherwise Subs. by Chd- Admn. Gaz. Notification 13-3-1975 at page 3445 1. substituted by Hr. Act NO. 90 of 1973 2. Subs. by Hr. Act 27 1930 as extended to Chd. vide Chd. Admn. Gaz, (vxtva) d' 3. section 19 was omitted by Hr. published on - 2-4-1973 Haryana Housing Board Act, 1971 (as extended to Chandigarh) 495 to co-operative societies or other persons, in accordance with the scheme; (c) laying or re-laying out of any land comprised in the scheme ; (d) distribution or re-distribution of sites belonging to owners of property comprised in the scheme; (g) the demolition of dwellings or portions of dwellings unfit for human habitation; (f) demolition or obstructive buildings or portions of buildings; (g) the construction and reconstruction of buildings. their maintenance and preservation ; (h) sale, letting or exchange of any property comprised in the scheme (i) construction and alteration of streets and back lanes ; (j) drainage, water-supply and lighting of the area included in the schemes; (k) parks, playing-fields and open spaces for the benefit of any area comprised in the scheme and the enlargement of existing parks, playing fields. open spaces and approaches; (l) sanitary arrangements required for the area comprised in the scheme. including the conservation and prevention of any impurity or contamination to rivers or other sources and means of water supply ; (m) accommodation of any class of inhabitants. industries, institutions, offices, local authorities, Co-operatives or Corporate bodies; (n) advance of money for purpose of the scheme; @ facilities for communication and transport; (p) collection of such information and statistics as may be necessary for the purpose of this Act ; and (q) any other matter for which, in the opinion of the • [Administrator], it is expedient to make

1) No housing scheme shall be made under this Act for any area for which improvement scheme has been sanctioned by the Local Administrator under the Punjab Town Improvement Act, 1922, any other enactment for the time being in force, nor any housing scheme made under this Act shall contain any thing which is inconsistent with any of the matters included in the town planning scheme sanctioned by the [Administrator or the Haryana Municipal Act, 1973] ; or any other enactment for the time being in force. (2) If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under any act mentioned in sub-section (1) or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the [Haryana Municipal Act, 1973] or any other enactment for the time being in force, the same shall be referred to the [Administrator] whose decision shall be final. .

28. Sanctioned housing scheme to be executed.- After the programme has been sanctioned and published by the • [Administrator] under sections 24 and 25, the Board shall, subject to the provisions of section 27, proceed to execute the housing scheme included in the programme

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authorities, is required for the purpose of any housing scheme sanctioned by the Board. (1) Where the local authority consents, such street, square or other land, or part thereof shall vest in the Board. (2) Where there is any dispute the matter shall be referred to the Administrator. The Administrator shall, after hearing the parties, decide the matter. The decision of the Administrator shall be final. If the Administrator decides that such street, square or land shall vest in the Board, it shall vest accordingly. (3) Nothing in this section shall affect the rights or powers of the local authority in or over any drains or water works in such street, square or land.

31. Compensation in respect of land vested in Board - (1) Where any land vests in the Board under the provisions of section 30 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the local authority, no compensation shall be payable by the Board to the local authority in respect of that land. (2) Where any land vests in the Board under section 30 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the local authority as compensation an amount equal to the value of such land. (3) If, in any case where the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of declaration so that the land does not revert in the local authority, the Board shall pay to the local authority compensation in respect of such land in accordance with the provisions of sub-section (2).

32. Power of Board to turn or close public street vested in it - (1) The Board may turn, divert, discontinue the public use of, or permanently close any public street vested in it or any part thereof. (2) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall, as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing. (3) In determining the compensation payable to any person under sub-section (2), the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed. (4) When any public street vested in the Board is permanently closed under sub-section (1), the Board may sell or lease so much of the same as is no longer required.

33. Reference to Government in case of dispute under section 31 and 32. If there is any dispute as to whether any compensation is payable under section 31 or section 32 or as to the amount of compensation payable under section 31 or section 32, as the case may be, the matter shall be referred to the Tribunal.

34. Vesting in the local authority of streets laid out or altered and open spaces provided by Board under housing scheme. - (1) Wherever the Administrator is satisfied - (a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, channeled, sewered and drained in the manner provided in the programme sanctioned by the Board under section 24 or varied under section 27 or modified under section 29; (b) that such lamps, lamp-posts and other apparatus as the local authority considers necessary for the lighting of such street and ought to be provided by the Board have been so provided; and (c) that water and other sanitary conveniences have been duly provided in such street; the Administrator may declare the street to be a public street, and the street shall thereupon vest in the local authority and shall thenceforth be maintained, kept in repair, lighted and cleaned by the local authority. (2) When any open space for the purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, it shall on completion be transferred to the local authority concerned, by resolution of the Board, and shall thereupon vest in, and be maintained at the expense of, the local authority. (3) If any difference of opinion arises between the Board and the local authority in respect of any matter referred to in the foregoing provisions of this section the matter shall be referred to the Administrator whose decision shall be final.

35. Other duties of Board. - (1) It shall be the duty of the Board to take measures with a view to expediting and cheapening construction of buildings and the Board may for that purpose do all things for - (a) unification, simplification and standardisation of building materials; (b) encouraging pre-

fabrication and mass production of house components; (c) organising or undertaking the production of building materials required for the housing scheme; (d) encouraging research for discovering cheap building materials and evolving new methods of economic construction; (e) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

36. Board to assume management of requisitioned lands.— The Board shall, if the [Administrator] 50 directs, and subject to the general control of the [Administrator], assume management of all or any of the lands requisitioned by or under authority of the [Administrator]. Substituted by Chd. Admn- Gaz. Notification 13-3-1915 Nt page 34-35 Haryana Housing Board Act, 1971 (as extended to Chandigarh) 37. Reconstitution of plots. A housing scheme may provide.— 499 (a) for the formation of a reconstituted plot by the alteration of the boundaries of an original plot; (b) with the consent of the owners that two or more original plots each of which is held in ownership in or in joint ownership shall, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot; (c) the allotment of a plot of any owner dispossessed of land in furtherance of the housing scheme; and (d) for the transfer of ownership of plot from one person to another.

38. Schemes entrusted to Board.— The provisions of section 21 and section 23 to 29 (both inclusive) shall not be applicable to any housing scheme entrusted to the Board by the [Administrator] except to such extent and subject to such modifications as may be specified in any general or special order made by the [Administrator] and every such order shall be published in the Chandigarh Gazette]

CHAPTER IV Acquisition and Disposal of Land 39. Power purchase, lease or acquire land. — (1) The Board may enter into an agreement with any person or through the acquisition of land by purchase, lease or exchange, of any land which is needed for the purpose of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith; (2) (Provided that the previous approval of the Administrator shall be obtained in case of purchase or exchange involving land worth more than fifty lakhs rupees or lease for more than five years.) (2) The Board may, from such date as the (Administrator) may appoint by notification in this behalf, also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act, 1894, as modified by this Act; the acquisition of any land or any interest therein for the purpose of this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894.

40. Betterment charges.— (1) When by the operation of a housing scheme the value of any land in the area comprised in the scheme will, in the opinion of the Board, be increased; the Board in framing the scheme may declare that betterment charges shall be payable by the owner of the land who is not having any interest therein in respect of the increase in value of the land from the execution of the scheme. (2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one-half of such increase in value. (3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme. (4) Notwithstanding anything contained in sub-section (1) and (3), in respect of any land used for any purposes at the time of the execution of the scheme substituted by Chd. Admn. Gaz. Notification dated 13-3-1975 at page 3443 I. Substituted by H. A. N. IO of 1989 a. extended to Chandigarh published on 2-4-1991 under Haryana ROR Act, 1971 (as extended to Chandigarh) schemes the betterment charges shall be leviable by the Board in accordance with such procedure as may be prescribed, only after the land is used, or converted for non agricultural purposes.

41. Notice to person liable for betterment charges.— (1) The Board shall in the prescribed manner give notice to any person, who is owner or has interest in the land in respect of which the betterment charges to be levied and shall give such person an opportunity to be heard. (2) After hearing such person or if such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges. (3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final. (4) If the person concerned does not accept the assessment proposed by the Board, the matter shall be referred to the Tribunal. (5) The Tribunal shall,

after holding an enquiry and after hearing the person concerned assess the amount of the betterment charges payable by the person

42. Agreement for payment of betterment charges.- (1) Any person liable to pay betterment charges in respect of any land may at his option instead of paying the same to the Board, execute an agreement with the Board, to leave the payment outstanding as a charge on his interest in the land, subject to the payment in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage, or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land

43. Recovery of betterment charges. All sums payable in respect of any land by any person in respect of betterment charges under section 40 or by any person under an agreement under section 42 shall be recoverable on behalf of the Board as arrears of land revenue

44. Power to dispose of land.- Subject to any rules made by the [Administrator] under this Act, the Board may retain, lease, sell, exchange or otherwise dispose of any land, building or other property vested in it and situate in the area comprised in any housing scheme sanctioned under this Act.

COMMENTARY

Allotment of houses

Escalation of price - It was stipulated in the brochure that price escalation in any case would not exceed 10% of the original price - Development Authority is bound by terms of agreement. In view of provision of Section 10 of Contract Act 1872 - Authorities misused times in price keeping aside the terms of agreement - Act of Authorities obviously is violative of Article 14 of the Constitution as well as provisions of Section 15 of Contract Act - Price exceeded the prescribed - such cases Authorities are required to satisfy the Court that escalation in price is not done in arbitrary and erratic manner - Prashant Kumar v. Smt. Sheela Devi, 2004(1) 11.R.R. 1 S.C. Allotment of H.I.G. houses

Discrimination - The housing Board allotted houses in favour of some officers and ignored the petitioner who was similarly situated - Order wholly unjustified - Shri L.R. Roqam v. Shri Banarji, Commissioner, 1985 H.R.R. 220. • Substituted by Chd. Admn. Gaz. dated page 34.35 Haryana Housing Board Act, 1971 (as extended to Chandigarh)

Allotment - Revised policy of industrial sites for the establishment of printing presses called into question in writ petition - Revised Policy does not suffer from any act of arbitrariness - Applicants formed a separate class All persons who have applied for industrial sites for establishing printing presses were grouped together - No discrimination - dismissed - Constitution of India, Article 4 • Paradish Printers v. Union Territory of Chandigarh, 1988 H.R.R. 409 S.C. —The petitioner was allotted a flat way back in 1987 when she lived at Sr. No. 536 in the category of HIO (L) I houses but she was refused possession thereof on one pretext or another - The Board is debarred by its own conduct from raising baseless objection at such belated stage when prices have gone sky rocketing - She cannot possibly apply for a plot of the same area for the prices prevalent in the year 1987 - Respondent directed to hand over the possession of the flat to the petitioner - Inder Bir Kaur v. The Chairman Chandigarh Housing Board, 1993 F.I.R.R. 578.

Allotment - Incomplete construction • Respondent allottee had been informing the appellant Board, time and again for making the flat habitable by putting up fittings and fixtures without which the flat remains only in a skeleton form - It was being storing cement by the Board - Respondent without completion of construction of flat cannot be compelled to execute the agreement to pay the revised rate of the flat with interest - Dismissing the appeal the Board is directed to comply with the directions of the High Court issued vide its order dated 2.2.1993 - Bihar State Housing Board v. Lalit Ram, 1997 H.R.R. 243 S.C. —The petitioner applied for the allotment of a flat under the Scheme 'first come first served' - She deposited a sum of Rs. 4,000/- and later on Rs. 50,000/- for rent of House in Sector 45-A - She wrongly stated in her application that no member of her family was owning any residential house or plot in Chandigarh/ Panchkula or Mohali while her husband had already been allotted a house - She realizing her mistake, wrote to the Board to cancel her husband's house to enable her to have the second house in Sector 45-A allotted to her but no reply was given by the Board - After having been directed by the Hon'ble High Court to hear her in this respect, the Board cancelled her allotment of Sector 43-A and ordered Rs. 54,000/- to be forfeited under Regulation No. 6 (2) 1979 - the order of the Board cannot be sustained - The petitioner had acknowledged her mistake - She was not given any opportunity to explain her position by the authorities - Forfeiture of the entire amount of Rs. 54,000/- of

a Class III employee is a heavy loss - However, forfeiture of Rs. 4,000/- deposited with the application could meet the ends of justice - The respondent is directed to refund Rs. 50,000 to the petitioner with interest at the rate of 12% per annum - Ram Dujari Union Chandigarh, 1994 HRR 67. Allotment or not - Appellants were allotted plots and were delivered - post-session or the same the year [1988 by the respondent - Total payment was made by them as agreed Demand made by Development Authority for additional payment from the appellant is not justified as they had paid the entire cost of the flat as agreed between the parties - Order of the Court on the ground of limitation cannot be sustained as the objections in this regard were still pending before the Authority for consideration - Saiyap Place Group Housing Association v. Agra Development Authority, 1994 HRR 134 S.C. Allotment of Government houses - Cancellation - On an inquiry it was found that the petitioners who were allotted government houses; had sublet the same and 'in consequence thereof their allotment was cancelled - Held, the mere fact that a cyclostyled order was passed, does not prove that there was no application - 502 Haryana Housing Board Act, 1971 (as extended to Chandigarh) sanctioned by the authorities cancelled - Dulwun Singh v. Chief Secretary Government Punjab 1989 H.R.R. 620 D.B. Allotment of house - The petitioner, an applicant for the allotment of a house, was at the 13th position number in the waiting list for allotment - his seniority was ignored and respondent No. 4 was allotted the house as the latter had an influence in the corridors of the Housing Board - [It was found that respondent No. 4 had preferential right whose claim was inadvertently ignored by the Housing Board - would not be proper to nullify the allotment of numerous people who are not even in the case - However, the respondent Board was directed to consider petitioner's sympathy of another house - Mritanjay v. Housing Board and others 1994 A.R.R. 265. —Discretion - Petitioner deposited Rs. 1,000/- with an application invited by Housing Board for allotment of houses - Petitioner was unsuccessful for allotment in draw of lots - No objection was filed against the allotment (though draw of all the allottees were not impleaded - NO reply about the letter giving option of choice of plots was given by petitioner - Moreover, writ petition was filed after a delay of more than one year - There is no illegality in the allotment - Shamir Singh v. Chandigarh Housing Board, 1995 H.R.R.

499. Allotment Rule - Violation - Respondent had applied allotment of a plot in Patna under the Scheme Of Allotment —An undertaking was given that in case there was an allotment in the name of any member or the family including himself he would inform the Allotment Authority in this respect • First allotment was made in his name within the Municipal limits of Patna with delivery of possession. Second allotment in the name of respondent was also made in the same vicinity No information was given to Authorities about first allotment violating terms of affidavit • Cancellation of second allotment by [Lies is legally valid - No citizen can be allowed to have second allotment within the same Municipal area under the Allotment Rules - Order of Court sustaining the allotment on equitable ground* quashed Rules 2, 9 and 14 of the Rules for Settlement of Land Acquired and Developed by the State Govt. of Patna - Bihar State Housing Board Sama Prasad, 1998 H.R.R. 153 S.C. Application of mind • Illiterate Chairman • Petitioners were allotted houses by respondent with a tentative price of Rs. 35,000/- which was deposited by petitioners in the year 1977 - Subsequently, it was in 1981 that fresh cost of construction was computed to the tune of Rs. 62,800 • Chairman of the Board being an illiterate person had disposed of their office without applying his mind he could understand either Hindi or English • There is scope in this contention - A quasi-judicial Authority should apply its own mind and should not depend on the assistance of his staff. This kind of practice can neither be approved nor meet the end of justice - Haryana Housing Board was directed to keep in mind what is being observed herein (Chairman - Parmanand Chairman, Zila Housing Board, 1996 H.R.R.

559. Arbitrary act Increase in price - Chandigarh Administration increasing the price of the allotted plots in any arbitrary and unreasonable manner Interference in the arbitrariness of the Administration under Article 226 of the Constitution is unjustified - Wor General Ram Singh (Retd) v. Chandigarh Housing Board, 1991 HRR 375.—Allotment - The petitioner deposited 10% cost of the house to be allotted to him under Scheme of the Housing Board, Haryana in Sector 29, Faridabad He was a [otted registration No. 645 - Having taken no unsuccessful in the allotment he was assured that his registration number would remain intact for allotment. Haryana Housing Board Act, 1971 (as extended to Chandigarh) 503 mentioned in Sector 3 for the allotment of house . He deposited the additional price of the house as demanded by the Board - Again he was not allotted any house though there were 774 houses available while his registration No. was 645 - Petitioner was obviously entitled to allotment of a house in

Sector 3 where the was allotted 40 acres of land for the construction of houses - Res oadent- Board was directed to accept the demand of the petitioner and allot him a house in Sector 29 or 3 at the rate prevalent at the date of original application - Surjir Singh's case AIR 1980 P H 65 distinguished Anil Xwna. • • Chmvla u How- ing Boam Haryana 1994 H.R.R. Z6T. Cancellation of allotment — An LLG nat was allotted to petitioner on the basis of income category— Monthly income 'shown as Rs. 4712/- whereas he was drawing less salary of Rs. 5715 - limit for allotment but was . 'SOO - Show cause notice about cancellation of fiat is not illegal as petitioner was not eligible for the Petition dismissed - Pawan Kumar u State q" Haryana, 2009(2) Haryana Law Reporter L 3 D.B. Cancellation of plot - Automatic cancellation - Where the allottee neither conveyed acceptance nor paid the amount asked for within 30 days of the receipt of allotment letter, it was held, that allotment stands automatically cancelled under Regulation 5 (5) of the Regulation 1978 - Smr. Aruna Luthra u State 1987 (2) PLR 124 - 1986 Rev. L.R

324. Cancellation of plots Opportunity - In S.R Dass v. State of Haryana, 1988 PW 123 D.B. where the allotments of plots were made to various persons out of discretionary quota of the Government made by successive ministries and at the instance of Lok Dal ministry orders of cancellation of residential plots were made. These orders of cancellation were challenged before the Hon'ble Pb, & He, High Court - Whereupon the Division Bench made the following observations: That blanket order of cancellation is liable to be struck down (i) Where the Government did not apply its mind or acted arbitrarily or where no guidelines were laid for allotting plots carved out of green belts or green reserved for public purposes (ii) Where allottee started construction after getting plans sanctioned (iii) where HUD did not apply its mind at all before issuing letter of cancellation. (iv) Where no show cause notice was given for cancellation as post decisional hearing would not meet ends of justice (v) Where the bona fide purchaser in good consideration from the original allottee was protected by Section 41 of Transfer of Property Act. Held, but Courts always have control over acts of Executive authority. The Executive authority is required to discharge its function in good faith and fairly and not in arbitrary way. Unchecked power is alien to rule of law u of Haryana 1988 PW 123 1988 (1) PLR 430 - 1988 • • IR.O.: 370. 'Compound interest — 'As per terms of allotment letter respondent Housing was allowed to buy price of lot within 7 years of date of allotment It included expenditure on construction of tenements and payment made towards enhanced compensation of land. Acquired along with interest compounded quarterly on enhanced amount of compensation — it was never challenged by original allottee who went on depositing per schedule— In the facts of Re cue, petitioners are not entitled to raise objection against charging of compound interest — Petition dismissed - H&dey Singh v. Housing Board Hawara, 2009(2) Haryana Law Reporter 627 Discrimination - A press correspondent, subsidised in house rent by State Government • Chandigarh Administration cancelled the allotment, taking the view 504 Haryana Housing Board Act, 1971 (as extended to Chandigarh) that allottee was a mere licensee as the subsidy in rent was withdrawn by the State government - Held, such a stand on the public authority is not in consonance with the constitutional obligation of the Government and its functionaries - Order of the Chandigarh Administration held to be illegal - Rajinder Kumar v, U.T Chandigarh, 1983 H.R.R 410. Enhancement of price - Petitioners were allotted houses at the rate of Rs. 1 for ground floor and Rs. 1, 15,700/- for the 1st floor- Additional price of Rs. 20,500/- and 19,600/- was demanded for increased cost of construction and Rs. 6265/- and Rs. 2906/- respectively on account of compensation of land - No justification was given for the enhancement of price and only justification was given that the work of construction by earlier contractor was not completed within time - The action of the Board enhancing the price cannot be sustained and is violative of Article 14 of the Constitution of India - Krishan Lal v. Housing Board Haryana, 1994 HRR 207. —Petitioners were allotted multi-storied flats at Manimajra by the respondent Board - In category I tentative price of the flat was Rs. 4 Lacs and in category II it was Rs. 3 lacs - Subsequently the price was enhanced to Rs. 6.25 lacs and 4.75 lacs respectively, to be deposited by the petitioners - No reply was given to the representation made to the Board - Held, there is no justification for increasing the price arbitrarily - Notice of enhancement of price held liable to be quashed - However* it will be open to the Board to take further action in accordance with the terms and conditions of the contract in question - Dalbir Singh Bhagat v. Chandigarh Administration, 1993 H.R.R. 514 D.B. —The Chandigarh Administration decided to allot some land for construction of ten shops to Chandigarh Housing Board at the rate of Rs. 500/- per sq. yard - The Board, thereafter invited application for allotment of these shops in the year 1983 and again in 1986 - The allottees were issued demand cum allocation letters demanding Rs. 3.5 lakh each plus balance amount of Rs. 1.5 lakh to be paid

after the delivery of possession of the shop - It was in the year 1989 that the Board fixed and demanded Rs. against the tentative price of Rs. as advertised earlier - Held, the price as demanded by the Chandigarh Administration vide its letter dated 31. O. 1989 is hereby quashed with the direction that the allottees may be given possession of the shops at the rate of land as advertised earlier - Major General Ram Singh (Reid.) v. Chandigarh Housing Board, 1991 HRR375. Escalation of price - In the instant case an LIG house was allotted at the cost was Rs. 45,000/- - Subsequently allottee was informed that escalation cost was raised to Rs. as final cost i.e. 4-1/ times of original cost - As per terms of brochure price could be raised upto 1090 only - Allotment authorities acted in an arbitrary manner not only in enhancing the price but also in delaying the possession - Order of High Court setting aside the escalation of price upheld - Kanpur Development Authority v. Smt. Sheela Devi, 2004(1) H.R.R. I S.C. Instalment - Reduction in period - Petitioners were allotted houses by the respondent - Total amount was to be paid in instalments spread upto 10 years - Period of payment reduced from 10 years to 8 years - The action of respondent reducing the period is illegal and not binding on the petitioner - The order of Haryana, be Sustained - Krishan Lal v. [Housing Board Interest on deposit - Respondent, Housing Board Haryana agreed to complete the construction of allotted house within 2 years from the date of allotment - Mat-y-na Housing Board Act, 1971 (as extended to Chandigarh) 303 Petitioners deposited the amount in the year 1980 and 1982 - Houses were allotted in the year 1989 • Petitioners held entitled to interest on their deposits at the rate which is paid by the Nationalized banks in Saving. Bank Account - Krishan Lal v. Housing Board Haryana. 1994 HRR 207 Misuse of premises - Misuse of premises by allottee who raised unauthorised construction on allotted land - Gou* allottee became absolute owner of allotted plot still local authority has jurisdiction to the violations or misuse of property by the allottee Commissioner or any other officer authorized by Corporation has discretionary power to compound any offence u/s 383 of Aryan. Municipal Corporation Act - But such power should be exercised With abundant caution by authority concerned — Sunsh Kumar u Municipal Corporation, Faridabad, 2006(2) HRR 306 D.B. Power of resumption - Constitutional power - No constitutional invalidity can be imputed to power of resumption under the Act. The very concept of a planned urban development is now a well recognised social norm of a welfare State challenge to constitutionality or provisions u/s 180 on the basis of principles enunciated in a case AIR 1986 S.C. 180 cannot be sustained - Sitrat smv, v. 1990 PLI 126 D.B. — Weapon or IHSL resorL - Wheæ construction of building was to be started within two years as per condition of allotment lease. The allottee could not start construction within the stipulated period the actual possession of the plot was not delivered to him by the authorities. Held. order of resumption on the ground of failure to construct the building within the said period is wholly right. Power of resumption must be used as a weapon of last resort with great caution by the authority under the Act - D.N Kiriwal u State of Haryana, 1987 PLJ 532. Pricing - Petitioners were allotted houses At the tentative price of Rs. 5,000/- per house - Subsequent price was revised to Rs. 62,800/- due to rise cost of building material, labour charges and other reasons - Petitioners had given their consent for such increase from time to time There is no illegality in the demand of enhanced price by the Board • Moreover, COORS cannot go into the question of pricing houses - Petition dismissed - P*manandv. Chairman. 1996 H.R.R

559. Resumption and, Natural usufruct - Where no notice was issued to guardian of the petitioner who was a minor, the resumption order was quashed - Surat Singh v. 1990 PLJ 126 D.B. Resumption and opportunity - Where the order of resumption was in respect of budding in occupation or tenants along with the owner it was held that both owner as well as tenant are entitled to be heard before an order of resumption is passed. In the absence of any material to show the issuance of such notice, the order of resumption was quashed Surat Singh v. State of Haryana, 1990 PW 126 D.B. Transfer of plot - One Smt. Prem Lata was allotted an MIG House on hire purchase basis - Price of the dwelling unit was fully paid and all formalities were completed within the stipulated period - The provisional permission for the transfer of allotted plot in favour of the petitioner was granted by the Board • Transfer fee was deposited after the stipulated period within which the affidavit and indemnity bond was to be furnished Delay in deposit of the deed and other document not to stand in the way of transfer of the plot - The Board is directed to intimate the amount of conveyance deed to be deposited by the petitioner within 15 days and then to transfer the dwelling unit in the name of the petitioner - Mrs. M Dan v. Board Haryana, Chandigarh, 1994 1 IRR 88. 506 Haryana Housing Board Act, 1971 (as extended to Chandigarh) Unauthorized Construction - A dwelling unit was allotted to petitioner under the category of 'Economically weaker section' at Maloya

colony at Chandigarh who raised unauthorized construction on Government land - Allotment cancelled for violation of terms of allotment letter - Petitioner slept over his right for long period - No relief granted to him - Petition dismissed - Suraj v. Umon Chandigarh, 2008(2) HRR 634 D.B. Valid/invalid order of allotment - Mere reminding through a letter to take possession of a house which already is allotted to another person, cannot be termed as an order of allotment - Sumer Chand Bhatt v. Haryana Housing Board, Haryana, 1984 H.R.R.

9. Violations of conditions - Cancellation —Petitioner was allotted an HIG House under Self Financing Scheme— The main condition of allotment was that no family member of Allottee should be owning any house within the limits or Tricity i.e. Chandigarh, Mohali and Panchkula But in the present case husband of petitioner was owning house in Panchkula and this fact was not disclosed by petitioner She had submitted a false affidavit in this regard — Petitioner can seek no relief from the Court in this regard as allotment was rightly cancelled by authority below — Petition dismissed - Shashi Bala v. Chandigarh Housing Board, 2014(2) Haryana Law Reporter 526 D.D. Violation of legal provision — Encroachment — Show cause notice Grievance Of the petitioner is against a show cause notice by respondent for encroachment on government land and issuance of notice without any legal authority — The plea that issuance of notice under Punjab Capital Act and also under Housing Board Act is against law Held, the objection is without any merit in view of decision rendered by this Court in Paramjeet Singh's case decided on 4.3.2012 (CWP No. 16970 of 2007) when it was held that Capital of Punjab Act, 1952 is applicable to urban as well as rural area of UT, Chandigarh as envisaged by section 4 of the Punjab Re-organisation Act, 1966 •The objection is But as no opportunity of hearing after issuance of notice and passing of an order was given to the petitioner, the impugned order is not legally sustainable— Impugned Order quashed — Case remanded to pass an order after hearing the petitioner — Petition allowed - P.S- Sawhney v. Chandigarh Housing Board, 2012 (1) Haryana Law Reporter 499 D.B. CASES UNDER CONSUMER PROTECTION ACT, 1986 The Housing activities carried on by the Statutory Authorities or private builders come within the purview of the Consumer Protection Act, 1986 -as held in Lucknow Development Authority v M.K- Gupta's case 1994 (1) CPC 1 S.C. . It has been observed in this case by the apex Court that when any statutory authority develops land or allots a site or constructs a house for the benefit of common man it is as much service as by the builder or a contractor - The dealings with the subject of plots, flats or houses decided under the Consumer Protection Act are being discussed below Allotment — Allotment made by Housing Board to 235 members of the respondent/society — Society introduced 6 new members which delayed the allotment of Additional Innd— Housing Board not liable for delay in allotment which was caused by Society itself — Chandigarh Housing Board u Krishan Kumar Goel, 2009(21) CPC 350 N.C. Haryana Housing Board Act, 1971 (as extended to Chandigarh) 507 through lottery - Demand of extra charges for allotment of corner plot as per rules is not even if it is a draw of allotment by - Estate Manager; u." Hewing * Kumar Gupta, 2010(1) CPC 376 S.C. Conversion in freehold — N.O.C. - Petitioner/OP refused to issue NOC as it was allotted in freehold on vague grounds — For a below directed OP to issue NOC — Impugned order held to be justified — 2012(2) CPC 362 Demand of enhanced price • - All the authorities below dismissed the plea of the petitioner who filed the demand against the allottees Continuity of frivolous litigation should be discouraged. Petition dismissed with penal cost of Rs. 1 lakh — 2012(2) CPC 363 S.C.. Extra charge for corner plot — Demand of extra charges for allotment of corner plot Rs. 1000 per rules is not illegal even if it is a draw of allotment by lottery. lottery - Estate Manager; M.R Housing Board Y. Rakesh Kumar Gupta. 2010(1) CPC 316 S.C. Housing allotment — Allotment under Hire Purchase Agreement — Housing Board demanding enhanced price illegally Complainant not liable to pay . enhanced price Defendant has proved — Housing Board v. Zekher, 2009(3) CPC 686 Haryana Housing Board • Allottee transferring plot to another person terms of allotment - Not entitled to get relief for delay in delivery of possession by Housing Board Chandigarh Housing Board v. Kapur Singh Grewal 2000(1) C.P. & 12 Chd. —Allottees not entitled to raise the question of pricing of flats or Plot under the Consumer Protection Act - Punjab Housing Development Board v. All India Defence Personnel Welfare Association (Reed). 1995(1) CPC 310 N.C. —Application for allotment of house in violation of Rules - Cancellation of allotment by Housing Board justified - Preen Ahluwalia u Chandigarh Housing Board 1999(2) CPC 68 Chd. of Housing Board in fixation of price of plot not open to challenge under Consumer Protection Act - National Consumer Awareness Group (Regd.) Chandigarh v. The Housing Commission, Punjab Housing Development Board, 1997(2) CPC 609 N.C. —Board not bound to pay

repair expenses unless proved by cogent evidence - donee by allottee complainant - Chairman, Nadu Housing Board u N. 1996p) CPC 337 N.C. Cancellation or allotment of house due to violation of condition - Board held liable to refund amount deposited. Chandigarh Housing Board v. Surinder Pall soni, 2004(1) CPC 413 N.C. —Complainant taking possession of house without any protest - Claim for amount allegedly spent on house. cannot be accepted Sushil V. Housing Board and Another, 1996(2) CPC 35 Chd. —Complainant who had deposited Rs. 10,000/- for house allotment was not allotted the house for three years - Housing Board held liable to compensate the complainant - U.2 Avas Evam Parishad (Housing and Settlement) u C.P. Sharma and Others. 1991 CPC 327 N.C. —Complainant's house was allotted to another person as he had failed to comply with the necessary condition - Housing Board not liable for deficiency in service - Chandu Chandigarh Housing Board, 1996(2) CPC 25 Chd. 508 Haryana Housing Board Act, 1971 (as extended to Chandigarh) —Complaint against charging inflated price by Housing Board - Order of State Commission awarding escalation cost upto 20% and direction remove the defects upheld - Harendra v. MR Grih Nirman Andol, 2002(2) CPC 13 L —Complaint regarding allotment of defective house is maintainable under the Consumer Protection Act - Dilbagh Rai v. Housing Board 1994(2) CPC 435 N.C. —Cracks appeared in the walls of flat allotted to complainant - Housing Board held liable to pay Rs. 25,000/- to complainant - Prof R Shanmugasundaram u Than Housing Board, 1991(2) CPC 384 N.C. —Delay in allotment of house without sound reasons - Housing Board is guilty of deficiency in service - Rajasthan Housing Board. Jaipur u Dr. Veer Singh Mehta. 1997(1) CPC 412 N.C. —Delay in delivery of possession of flat due to non-supply of water and electricity - Housing Board not liable for delay - R. Gopala Subramaniam v. Vice Chairman, A.P.H., Hyderabad. 1995(2) CPC 223 N.C. —Delay of 7 years in delivery of possession of allotted house - HUDA is liable to pay on deposit from two years after date of deposit - H u Depina Jaswal, 2003(1) CPC 111 N.C. —Demand of balance amount from allottee was made in 1992 by Housing Board - Payment was made in 1998 - Allottee directed to pay 12% interest for delayed period - M.P. Housing Board v. Jagat Kishore *hare, 2002(2) CPC 186 N.C —Directions can be issued to the Housing Board for removal of defect in the houses - Directions concerning schools or medical facilities cannot be issued - Secretary, Orissa State Housing Board u The Chandra Sekharpur Housing Board Colony Unnayan Sami", 1994(1) CPC 376 N.C. —Housing Board cannot be burdened with a disproportionate compensation by consumer forum - Bihar State Housing Board u Prio Rawan Roy, 1997(2) CPC 430 S.C. —Housing Board charging higher price than of the indicated price of plot and delaying the possession - Allottee entitled to refund of excessive price with 18% interest - M.E Housing Board v, Ashok Chandra Varshney, 2003(2) CPC 7 N.C. —Housing Board delayed possession of flat for three years after receiving payment - Directed to pay Rs. 22,000 as compensation - Chandigarh Housing Board v. Daljit Singh, 2001 (2) CPC 133 Chd. —Housing Board failed to complete construction of house within stipulated period - Held guilty of deficiency in service - Rajasthan Housing Board v R.C. Bhandari, 1997(1) CPC 465 N.C. —Housing Board failed to construct house in agreed time after payment - Directed to refund entire amount with interest after deducting 20% of initial deposits - Housing Board v. Gauri Shankar Singh, 2003(2) CPC 262 N.C. —Housing Board failed to construct the house in time due to paucity of funds - Deficiency in service not proved - Prem Lata (Ms.) v, The Punjab Housing Development Board. 1994(1) CPC 25 Pb. —Housing Board misleading complainant about grant of loan from his employer cancelled allotment despite payment of initial price - Housing Board directed to refund the amount with 18% interest - Allam Aslam v, The Chairman, Board. 2003(2) CPC 505 N.C. Haryana Housing Board Act. 1971 (as extended to Chandigarh) 509 —Housing Board though is statutory body is not exempted from the provisions of the Consumer Act - Directed to make its Rules "fair and just" to the public - Punjab Housing Development Board v. Shri Anand Sharma 1991(2) CPC 601 Chd. —Housing Board, respondent not receiving the cheque though due to mis. take of another statutory body - Respondent is not at fault - DR Sunil Kumar u 2 Avas Evam Parishad, 1991 CPC 523 N.C. 4110 flat constructed by Housing Board found in dilapidated condition - Board directed to refund entire price with 12% p.a. interest and costs - Housing Board, Haryana through its Chief Administrative Officer u Shri Ramesh Kumar Goel, 2002(2) CPC 362 Chd. —No Objection Certificate denied to allottee who had to raise contribution - Order of cancellation of plot is unjustified - Chairman. Tamil Nadu Housing Board v Pitchaimurhammal, 1996(2) CPC 339 N.C. —Non delivery of possession of house despite payment of full cost - Housing Board directed to pay Rs. 50,000/- as costs - Rajasthan Housing Board v. Prakash Chand Jain, 2001(2) CPC 664 N.C. —Pricing of Housing Board cannot be challenged under the Consumer Protection Act - Housing Board P. Singh etc. etc., 1993(1)

CPC t N.C. —The MRTP Commission based its finding on unfirtnde practice against Housing Board on no evidence - Order of Commission set aside - RØasthan Housing Board Smt. 'Panati Davi 2000(2) CPC S.C. —Total price of flat paid - Delay of 7 months possession • Housing Board direct-d to pay 12% interest on deposited amount - Chandigarh Housing Deard v. Shri HarJthdep Singh. 2002(2) CPC 516 Chd. —Undue delay in sanstion ofzontng plan resulting in delnyed pnssuuiun uf plot • Housing Board direoted to pey 9% p.a. interegt on deposited amount - Krishna Kumar Goel. Advoeate v. Chaüigarh Kowing Board 2003(1) CPC 396 Chd. —Wife Allotted R house- Husband rightly declined nllomentb Cllilndigarh m, 1999(2) CPC Housin Board - RS Sawhney u Chandigarh Housing Boa 229 Housing complex - No provision for providing liR in agreement - Com- plaint regarding 180k ot facilities ot lift dismissed - J. paFthasrthy v. Ws. Housing Promoters Ltd., 2002(2) cpc 94 N.C. Housing construction - Delay in construction of house by Development Authority within time due to faoton beyond its contNI • Deficiency in serv•ee not proypd • Somusuudura v. ne Mysore Urban Development Authority, 1994(2) CPC 414 N.C. • —Delay oe seven years In dellvery ot posseslson ot allotted house - Com- plainne held entitled to compensation - Harbans Singh p. Lucknow Develop- 1994(2) CPC 384 N.C. Housing loan - Provisions of Bihu- Coop. Society Act no bar to complaine against charging of higher intetest on housing loan Ram Deo Singh@Ram Dev Prasad Singh v. Bihar Sran Housing coop. Federation Ltd., 2003(2) CPC 564 N.C. Housing scheme - Complainant deposited Rs. 3000/- in 1989 as registra- tlon atnount fbc allotment - Scheme abandoned in 1996 withöut ceason - Com- 18inarit ültitled to interest on de osiL* - PuMah tfrhun Development hori5' u Shri Inder Pal Si»gh, 2002(1) CPC 389 N.C. 510 Haryana Housing Board Act, 1971 (as extended to Chandigarh) —Elouse not allotted even after receipt of 55% price - Authorities directed to refund deposits with 18% interest - George Thomas Ghaziabad Develop- ,nentAuthority, 1999(2) cpc 183 N.C. Housing service - Delay in delivery of possession by six years Opposite parties liable to pa 18% interest on deposited amount-S.K Jain H, 2004(1) cpc 33 d.c. —Extra amount as alleged was not charged from complainant - OP not liable for deficiency in service - Jugal Kishore Maheshwari v. Bhopal Devel- Authority, 2002(2) cpc 191 N.C. —Housing Board accepted request Of allottee to agept the instalment as in case of hire purchase Board can not resale from its undertaking - Petition dis- missed - RaJ. Housing Board Murali Lal Jaiman, 2003(1) CPC I IO N.C. —PUDA failed to deliver physical possession.ofallotted house - Directed to pay Rs. 500/- p.m. till date of delivery of posgession along with Rs. 20,000/- - Pun •ab Urban Planning Development Authority Ram Murti, 2002(1) cpd 559 N.C. —Undue delay in delivery of possession Of house - Award Of interest @ after two years upheld - GD.,d. v. RG Saxena, 2002(2) cpc \$2 N.C. —Undue.delay in delivery of poascsåion ofhöusé OP directed to pay 16,5,% interest •on. depOsited amount 'Laxman Kuma* Harwani M.P. State Co-op. flowing Complex. 2003(2) CPC229 NC. Judgement iu renn Judgqmgnt•imtem is binding not only to parties but upon all the world* 2009(1) CPC 443•N.q Lim itgtlon - ofävli011 arose iii •1998 when Éossession was deliveled — Complaint 2002 without expiaining delay IS barred by limitation — Chandigarh Housing Dourd u Krishan Kumar Goel. 2009(2) CPC 390 N.C. Price of price ae-delermined in LPA whose complainant was not a party — I ,PAjudgementi "Ot-binding upon ailqttee t) CPC 443 Rate or interest - District Forums-illowitig, complaint directéd OP IO pay from 1604 to 12% Rest of the order left undisturbed -Uad&va Pradesh Hous- ing cpc 678.N.C. • Review — order passed •by .the Fora. c.inÖt be reviewed-in. the name of correction of typographical' érror' : .M-P.. Hou.élng Board Jagdish Prasad Maheshwari, 2010(2) cpc 451 NC'. uypograpbical error -An order passbd' by •the Fora.eannotibe.reviewed in the naine of correction of typographical error - M.R Housing Board Jagdish 431 N.C

45. Diseute.». regarding re-coustiüdition - (i) Where by 'the' mole: ing ofa houstgg scheme, any plots the:orca.gncluded id'the scheme are reconstitåted or anyperson is dispossessed, the such inquiry. as it thinks fit award to. the person affected by Such re-eonstituti0h Or, dispossession such compenSation reasonable, Ifthe persOn •is dissatis-' fied with the decision Qftbe• Board in thy intorrrije DoarCaecordingly. The Board shall thereupon refer the matter-tb •tti6TiibUnaI. (2) The Tribunal Sha then after making an •inquiry,deteÉmine the amount of • compensation and direel Board tu pay the santv to ilte concerned. Haryana Housing Board AGI, 1971 (as extended to Chandigarh) CHAPTER V frib unal 46. Trihunal- The Tribunal shall he the -rudge having jurisdiction In the area concerned

47. Dunes of Tribunal.- The Tribunal shall- (a) decide puyablv undu swtion 31 ; (b) decide the atnount compensation in matters referred to it under 33 , (c) decide disputes relating to betterment charges referred

to it under section 41 ; (d) decide disputes and the amount of compensation to be awarded under section 4S
• and (e) decide other matters may be prescribed by the rules made in this behalf

43. Powers of and procedure before Tribunal.- (1) In making enquiries the Tribunal shall have and exercise as far as may be the Same Owen and follow the same procedure as under the Code of Civil Procedure, 1918 (2) Every order madg by thc •rribunal for the payment of money and for the delivery of the possession or removal of any structure Shan be enforced by the District Court as if it were the decree of the said Court. (3) The proceedings before the Tribunal shall be deemed to bejudicial pro- reedings within the meaning of sections 193 •and 228 of the Indian Penal Code, 49. Darision of Tribunal '0 bafinal. -The decision ofthe Tribunal on any matter referred to it under this Act shall. subject to the provision ofsection 50, be final

50. Appeal HIWI Court- The Board or any person aggrieved by a decision of the Tribunal may within three months from the dRte Of the decision, or suul' further Litne as IIIV High Coud may for sufficient cause allow, appeal to the High Court and the High Court shall pass such orders on the nppeal as it thinks fit, CHAPTER VT Power to Evict Persons from Board Premises 51.

Power to evict persons from Board Premises. — (1) If the competent authority is satisfied, (a) that the person authorised to occupy any Board premises has— (i) not paid rent lawfully due from him in respect of such premises for a period of more than two months or (i i) sublet, without thé permission Ofthe Board the whole or any part of sueti prernises or (i ii) otherwise wled in contravention of any of the terms, expressed or implied, under which he is nuthorised to occupy such premises : or (b) that any person is in unauthorised occupation Ofany Board premises : . the competent authority tnuy. notwithstanding anything contained in any law for the tillie being in furce, by notice served by post or by amxlng n COPY Of it on the outer door or some Other conspicuous part of such premises, OT in such Other manner as Inay be prescribed, order that the person as well as any other person whu be in occupation of the whole or any part of the premises, shall vacate them within one month from the date of the service ofthe notice: Provided that no such order shall be passed unless the person has been afforded an opportunity to show cause why such order should not be made. 512 Haryana Ilousing Doard Act, 1 971 extended to Chandigarh) (2) IF any person .efuses or fails to comply wth an order made under sub- .egtion (I the compctent authority may evict person from, and take posses- Sion pf the premises and n.ay for that purposc use sueh force as may be neeces- (3) If a person, who has been ordered to vacate any premises under sub •lause (1) or sub-clause (III) orclauw (a) ofub.section (I). within thirty days ot the date of service of the notice n. lenger time as the competent authority may allow, paye to the Board the tcnt in arrears or carries out or othetwise gom- with the terms contavened by him to the satisfaction of the compcte;-tl' thority. as the case may be, the competent authority sbalt, in lieu of evicting auch person under sub-section (2). canecl its order made undec sub-section (I) •nd thereupon such erson shell hold the premise' on the same tGrms on which he held them immeaiately before such not;ee was served on him. COIVIMENIARY Allotment - Housing Bourd - Eviction • Entire payment was made for allotment of house inctlld;t.g '*it - Prescribed date 6cpayment was 30.3. I Yb2 Only minor amount (RS. 800,- only) was deposited after said date - Col lector pused an order of eviction against petitioner under Section 5 of Haryana Hous- ing Board Act fir not deposit illb (he entire amount before the proscribed "ate - Order ofevigtion not legally -sustaihable Petitioner was neither in unauthorised possession nor he had defaulted in payment of rent etc. but he was an owner of the shop when nder of ejectment was passed agaiti\$ bet - Petition aaccepted - RÜ Kumar v. Housing Baard Haonna, 2004(1) H.R.R. 380 Cancellation or ho use allotmant - Discretionary powers - Petitioner (origi- nal allottee) Rs. 10,000/- with in the stipulated period in pursuance ofa letter issued by the Chairman of the Housing Board Haryana. Payment tor addl- tionai amenities also ageced to be made - Accceptanec thereof by Iha•. Board also mado - lousing Board comtnuntcuting a letter C9 the new allottee of the house in dispute informing him to the possession thereof- No opportunity ofthe hear- ing given to the original allottee - Order ofthe Hou3ing Board liable Ln be set aside - Order quashed - Sumer Chand Bhart v. The Hvusjng Board Haryana 1984 H.R.R

9. Misuser -The petit:onet was allotted a d*elling unit in Malaya under Economical Weaker Section Scheme - He raised unauthorized wnsteuotion Ln tmnt of his house on Govemmeat land and started a Kawana shop therein Authorltles concerned cancelled the allotment and tormted the deposited amount - Before cancellation of atlQtment many notices were serve* him but the same weren't msponded- to - Petitions filed by him were diamtssed as time barred givine rise to present writ

petition 'The order of eviction t. used 2002 whereas petition was filed in 2007 - Moreover he did not make any attempt to remove the violation even during pendency of proceedings. NU rectification can be given to petitioner for his attitude - Petition dismissed - Surd Union F. Humāgarh, 2008(1) HRR 198 D.B. S2. Power to recover [rent, toll] or damages as arrears of land revenue. - (1) Subject to any rules made by the [Administrator] in this behalf and without prejudice to the provisions of section 51, where any person is in arrears of rent payable in respect of any Board premises [or arrears of instalments payable in substituted Chd. Admn. Notification dated 13-3-1973 at 34-35 I. Substituted Hr. Act No. 10 of 1989 e.] extended to Chandigarh published on 24-1-1991 2. by No. 10 of 1989 extended to Chandigarh 2-4-1991 Haryana Housing Board Act, 1971 (RS extended to Chandigarh) 513 respect of any loan advanced by the Board for construction, reconstruction or repair of a house] the competent authority may, by notice served by post or by annexing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be prescribed, order that person to pay the same within such time not being less than thirty days as may be specified in the notice. If such person or to pay the arrears of rent or the arrears of instalment of loan] within time specified in the notice, such arrears may be recovered as arrears of land revenue. (2) Where any person is in unauthorised occupation of any Board premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served by posts, or by affixing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be prescribed, order that person to pay the damages within such time not being less than thirty days as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue. COMMENTARY Arrest and recovery of (rent) - Where the terms of mortgage make it clear that the Government has first to proceed against the property mortgaged and sell the property in case the House Building Society loan is not paid by the loanee It was held that the being bound by the terms of the mortgage, has first to proceed against the mortgaged property - The amount could not be recovered by arrest of the members of the Society in the first - State of Punjab Dharam Singh, AIR 1985 SC. 1752 Auction of the site — Deduction — Petitioner failed to deposit balance 60% amount and surrendered the plot — Housing Board refunded the deposited amount after deducting 10% amount as per terms of auction of site — Deduction is justified • Hem Raj Housing Board Haryana. 2014(1) H.L.R. 283 D.B. Injunction against recovery - The order of fixing liability was passed in violation of principle of natural justice - The pact affected was not provided proper opportunity of hearing before passing the impugned order - Order held to be void - Civil Court can grant injunction against the recovery - Ws. K.K. Indus- v. Union of India and others, 988 IJ 588. Recovery of arrears as land revenue • - There are eight steps postulated under Section 67 of the Punjab Land Revenue Act, under sub-heads (a) to (h) and arrest and detention of the person of defaulter is one step Where the petitioner's husband, obviously in arrears of House Building Society, was summarily put to arrest and detention without resorting to other steps of the Act, the order of detention was set aside Section 67 Punjab and Haryana High Court - it was held that arrest and detention of a person, in such cases, should be the last resort and arrears should be recovered ultimately by other means of recovery under the Punjab Land Revenue Act - Gomti M Co-operative House Building 1988 P. L.J. 416 (D B) . . — 1989 (2) Rev. L.R. 296. S3. Rent to be recovered by deduction from salary or wages certain — (1) Without prejudice to the provisions of section 51 any employee of the Administrator or a local authority and who Substituted by Chd. Admn. Notification dated 13-3-1973 at 34-33 Haryana Housing Board Act. 1971 (as extended to Chandigarh) any Board premises, may execute an agreement in favour of the (Administrator) or local authority that the [Administrator] the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due to him in respect of the Board premises allotted to him. (2) On the execution of such agreement, the Administrator or local authority as the case may be, shall, if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employees specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board. [53-A. Penalty (1) If any amount due under the Act or rules made thereunder not paid by any person in compliance with the orders of the competent authority, such authority may, after giving such person an opportunity of being heard, impose upon him a penalty not exceeding five per cent of the

amount due, if it has Nason to believe that the person liable to pay the amount has failed to pay the same. (2) If the Penalty imposed under sub-section (1) is not paid within a period of thirty days the same shall be recoverable as arrears of land revenue]. Any person aggrieved by an order of the competent authority may within thirty days from the date of— (i) the service of notice under section 52; or (if) the imposition of penalty under section 53-A prefer an appeal to the District Judge of the District in which the premises or the land situated or such other Judicial Officer in that District as the {Administrator} may, in consultation with the High Court, appoint in this behalf]. Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time]. (2) Where an appeal is under sub-section (1), the appellate officer may stay the enforcement of the order of the competent authority for such period and on such conditions as he deems fit. (3) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible. **COMPETENT APPELLATE** Appeal is continuation of original cause - An Appellate Authority is competent to correct an error committed by the lower Authority, without remanding the case back - The power of remand should be used with great circumspection - *Om Parkash and others v. Joint Director Panchayat Punjab* 1987 PLJ 273 - 1987 (1) PLR 674. Creature of Statute - Legislature can impose conditions for exercise of such right - There is no reason why the legislature while granting the right of expropriation by Chd. Admn. Oa. dated 13-3-1915 at page 34-35 I. Inserted by Act No. 47 of 1974. Substituted vide Chandigarh Administration Ga. Notification 2-4-1991 at 339 Haryana Housing Board Act, 1971 (as extended to Chandigarh) 515 appeal cannot impose condition for the exercise of such right so long as the conditions are not so onerous as to amount to unreasonable restriction rendering the right almost illusory - *Selhi Lal and others v. QI Hawana and others* • AIR 1980 S.C

2097. Merger - Appellate hearing is a rehearing of the whole subject matter and when a decree is passed in appeal, the suit merges in the appellate decree - *Sadhu Singh v Dharam Dev etc.* AIR 1980 S.C

1634. Power - An appellate Court has the same powers as conferred on the Court of original jurisdiction - A decree passed by an Appellate Court is deemed to be fresh decree - Once appeal is filed against the decree the Appellate court has - *Shrimati Gita v. F.C. Haryana* 1987 PLT 265. • Revision - A person who is not a party to an order is not entitled to file a revision against the impugned order - *Stam Ugnod Kumar*, 1986 (1) PLR 222 • 1986 Pt., 161 (F.B.). see also 1985 HRR 570. [it is vested right of litigants which accrues at the date of filing of the suit - is governed by law prevailing at the date of institution of the suit and not at the date of filing of appeal - *Kuntar Kaur v. State of Haryana*, AIR 1966 (P & H) 99 - 1981 Rev. L.R

127. Right of an appeal is a substantive right. [it is not a procedural matter and cannot be restricted in the absence of an express provision to the contrary Such provision should not be construed narrowly - *Kanishi Ram v. Subedar Shri Ram* etc. MR 1980 (P&H) : 1980 Rev. L. r. 225 : ILR (1980) 2 195. Statutory right • Appeal is a right - Litigant cannot claim their right unless it is provided in the statute • Absence of such right in Statute does not render it unconstitutional • *Subedar Munshi Ram and another v. State of Punjab* 1979 PW (FIB.) 489, Subsequent event - Appeal is a rehearing of the case Appellate Court entitled to take into account subsequent event - *Santak Singh v. Zaqvi Ram*, AIR 1986 (P & H) 346 - Rev. L.R

444. LIMITATION Acknowledgement • Mortgagee's right - Where the receipts of consideration money did not indicate that their makers intended to admit the subsisting mortgages and that the right to redeem was subsisting those receipts will not amount to an acknowledgement within the meaning of S.19 of Limitation Act - *Bachin Kaur v. Gurnam Kaur* - 1991 ILR.R

28. Cause of action - Time starts from the date when the cause of action first accrues • Successive default of plaintiff's right does not diminish fresh causes of action in View Of Section 58 of Limitation Act - *Saunder Singh v. Harnam Kaur*; 1987 PW 248- 1967 (1) PLR 591, **Condonation** It is not necessary that a written application under 5 of the Act should be necessarily made - *Condonation of delay* can be permitted on oral request of the party - *Partap Singh P. & others v. Haryana* 1971 PLJ 48 D.B. **Condonation of delay** - Where the legal representatives of the deceased respondent has been brought on record earlier too, the appellant cannot say that they had no knowledge that the LR's of the deceased appellant were to be brought in - *lack of knowledge of period of limitation not accepted* -

Application for getting aside abatement and one year after the death of the deceased appellant was dismissed, being barred by time *Jai Ram v. Jagat Ram* 1991 H.R.R.

102. Extension of time - Presumption Where the decree-holder was allowed to deposit the amount of security after the due date without extending the 516 Haryana Housing Board Act, 1971 (as extended to Chandigarh) time limit was held that extension of time is presumed to be allowed even if no application was filed in this regard *Amar Nath Jain v. Ram Parbhu Dhillon* 1968 H.R.R. 47. —Where the grounds of condonation i.e. negligence of the counsel were not proved held, applicant cannot get any relief. Application condoned - *The United India Insurance Company v. Sushil Chander and others* - 1987 S.R.R. 297. —Delay - Allotment of dwelling unit made in 1989 was cancelled against which writ petition was filed in 1999 - Decree-holder had been making repeated representations regarding patent mistake committed by Housing Board but: without any success - Board failed to pay any attention to the repeated requests of allottee and no decision was conveyed - Objection regarding belated prayer for relief through writ petition cannot be objected to by Board and cannot be allowed to advantage of its own mistake and inaction • *Smt Shashi Dala v. Chandigarh Housing Board*, 2001 232 D.B. Limitation Courts are bound to look into the question of limitation even if no plea is taken by party in this regard - *Ganmani Awasuya Purvatini Amarendra Chowdhary*, 2008(1) HRR 476 S.C. Mistake of Court - There is no time limit to correct Court's own mistake - Claimant penalised for mistake of Court - *Kartar Singh v. State of Punjab* 1986 PW 206. Mistaken advice - Litigant bona fide pursuing his case in wrong court - Time should be excluded - *Badiu Shivchara*, 1980 PLJ 214 = see • so 1987 HRR 28, Redemption - Acknowledgement - The land, in dispute, was mortgaged by A in favour of B in the year 1921 who sold his mortgagee right to C in the year 1954 - The suit for redemption was filed in 1973 - Limitation must be deemed to have started from the original mortgagee in the year 1921 and not in the year 1954 - *Mohan Singh Jogor Singh* 1991 H.R.R. 93. Time spent for copy - Bench on day on which judgment is pronounced and time spent for obtaining copy, should be given under Section 12 (1) and (2) of - *Singh v. MC. Karna*, 1983 PW 22 • See also 1986 HRR 665. Void order - Once an aggrieved party is dispossessed in violation of a void order • limitation will start from the date of and order is 3 years - *State of Punjab v. Gurnam Kaur* 1984 PLJ 389. —When order is not void or without jurisdiction, Article 100 will apply - *Kalia and another v. Chandu Luit* • 1984 PLJ 360. —Question of limitation does not arise where an order is void and without jurisdiction - Such orders can be ignored without getting them set aside - *Kumar v. Sham Mangle* 1989 H.R.R.

641. Void or non set order - It is necessary to give such orders set aside Such cases are removed by Art. 68 and not by Art. 100 of the Limitation Act - *Winder Singh v. Gur Charan Singh and others* 1964 PW 360. —Delay in depositing security was bona fide holding of the Court by the Presiding Officer being on leave and not because of the judgment-debtor Security was deemed to have been filed within time. Delay of four days is condoned - *Mukhtiar Singh v. Mis. Pakhar Singh Amr Singh and others* - 1988 H.R.R. 583. —An action for enforcing a right within the period of limitation as fixed by law cannot be thrown out merely on the ground of delay • *Dr. v. Sunil Kumar Shamsunder* - 1988 H.R.R. 533, Haryana Housing Board Act, 1971 (as extended to Chandigarh) 517 SS. Futility of order and bar of jurisdiction of Civil Courts. - (1) Save otherwise expressly provided in this Act, every made by competent authority or an appellate officer under this chapter shall be final and shall not be called in question in any original suit, application or execution proceedings. (2) No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter of which the cognizance can be taken and disposed of by any authority, empowered by or the rules made thereunder. JURISDICTION Jurisdiction - Allottee became absolute owner • Local authority under the Housing Board Act still has power to regulate the violations by allottee - *Suresh Kumar v. Municipal Corporation, Faridabad*, 2006(2) KRR D.B. Adjudication Debt Settlement Officer to adjudicate upon the question whether a loan is a debt or a person is a debtor • In absence of any such decision Civil go into the matter after giving proper opportunity to the parties • If the Civil Court comes to the conclusion that the matter is covered by the provisions of the Act - It must stay its hands *Bhola Singh P. Lachhman Dass* 1980 PLJ 232 (D B) = 1980 RLR 546. Consent - An order without jurisdiction is non-est • Consent does not make the order legal and cannot invest the Court with jurisdiction - *Saraswati Datta v. Sana and others*, 1983 PLJ 249. Interpretation - 13 well accepted principle of interpretation of statutes that the scope of the provisions • An Act would firstly have to be determined per force of the language used or employed by the legislature in the legislation - The objects

reasons would be considered when the language of the Act is capable of two interpretations - Natural meaning of the language should be adhered to *V. V. Kumar Bhambhani v. Ram Nath Bajji* - 1990 - H.R.R. 151. — Unless there is anything repugnant in subject or context - in view of this qualification, the court has not only to look at the words but also to examine the context and in the light of the object of the and the purpose for which a particular provision was introduced by the legislature - *Smt. Pushpa Devi and others. v. Milkhi Ram* 1990 H.R.R. 123 (S.C.) — The Central Government is empowered to extend to the Union territory not only the original enactment of the State Legislature but also the amendments thereto made by the State Legislature - *Ramesh Bhat et al. v. Union of India and others* - 1989 HRR 398 (S.C.) - 1988 HRR 433 (FB) upheld. Question of jurisdiction can be raised first time even at the times of second appeal where the original Court is lacking the jurisdiction - It can be raised even at the time of execution when decree is a nullity - *Wit Mohinder Singh v. Sri. Dhani and others*. AIR 1987 (P & H) 167 1986 Regent Luvs 48. *McCrear* - The order of the Addl. Director affirmed by the Single Judge of the High Court and the writ maintained in L.P.A dismissing the Civil Writ Petition - Civil court cannot proceed into the matter on the doctrine of merger - *Dashan Singh v. Sub Judge 1st. Class; Iloshiarpu* - 1988 H.R.R. 483. — Where the possibility of settlement was more in the High Court than anywhere else it was held that the High Court was proper Forum to dispose of the case Order of the High Court remitting the case to trial Court was set aside by the Supreme Court - *Abhey Singh Surana v. The Indian Rayon and Indw...* 1988 H.R.R. 506. 518 Haryana Housing Board Act, 1971 (as extended to Chandigarh) Non set order - A person who was not a party to an order passed by a Tribunal against him can file a suit for declaration to the effect that the Order is not binding upon him. and non est so far as he is concerned - Such person is not entitled to get such order declared void but can seek declaration that the order qua him is ineffective - *State of Haryana v. Vinod Kumar and others*, AIR 1986 (p & H) 407 F.B. - 1986 Rev. L.R

331. Pleading - It is an established principle of law that for determining the jurisdiction of the court, pleas of the plaintiff in the plaint are to be taken into consideration - *Chief Of Punjab v. Chawali*, 1980 PLJ 10, — Question of Jurisdiction can be decided by taking into consideration pleas in the plaint of the plaintiff - *Karnal/ Singh v. Jaggar Singh*, AIR 1984 (P & H) 294 - 1984 (2) LLR 143 - see also 1987 HRR 530. — Question of jurisdiction can be determined from the case pleaded in the plaint - *Chandu Lal v. S.K. Chhiber* 1983 PLJ 559, Preliminary issue - An issue does not cease to be an issue of law by the mere fact that it contains some conditions of purchase order based upon some facts - The issue should be treated as a preliminary issue as an issue of law *W. S. United Vanaspati Ltd. v. MS. Shri Vardhman Salva* Private Ltd.* - 1988 H.R.R.

641. Concurrent jurisdiction - An Application for appointing an arbitrator was pending in one Court while another Court in the same matter proceeded to extend for the appointment of any arbitrator, it was held that the second court has no jurisdiction to proceed in the matter - *Nehru Ram Goel Engineers v.* 1989 B.R.R.

218. CHAYI*ER Vu Finance, Accounts and Audit 56, Board's Fund, - (1) The Board shall have a fund called the Housing Board Fund (2) The Board may accept grants. subventions, donation and gifts from the Central Government or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act. (3) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents and all interests profit and other money accruing to the Board, shall constitute the Housing Board Fund. (4) Except as otherwise directed by the [Administrator], all money and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the State Bank of India or in any Scheduled Bank or a Co-operative Bank or invested in such securities as may be approved by the [Administrator]. (5) Such accounts shall be operated upon by such officers as may be authorised by the Board. Explanation. - For the purposes of this section, a Scheduled Bank shall mean a Bank included in the Second Schedule to the Reserve Bank of India Act, 1934. • Substituted by Chd. Admn. Gaz. Notification dated 13-3-1975 at e 34-35 I. Omitted vide Chandigarh Administration Gaz Notification dated N-1975 at page 34-35 Haryana Housing Board Act, 1971 (as extended to Chandigarh) 519 57. Application of the Housing Board Fund - All property, the Housing Board Fund, and all other assets vesting in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act

58. Expenditure in case of urgency, etc- - (I) Where in the opinion Of the Board circumstances Of extreme urgency have arisen, it shall be lawful for the Board to make for the purpose of this Act in any year an expenditure Of such amount as may be prescribed, notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the • [Administrator] or the variation of the programme made under section 28.(2)

Where any sum is expended under circumstances Of urgency as provided in subsection a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the • [Administrator]. (3) The Board may within the budget sanctioned by the • [Administrator], approve appropriation not exceeding such amount as may be prescribed from one head to another and from one minor head to another under the same major head and submit a statement of such reappropriation to the • [Administrator]

59. Subventions and loans to Board- (I) The • [Administrator] may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the • [Administrator] may determine.(2) The • (Administrator) may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the • Administrator may determine

60. Power of Board to borrow.(1) The Board may from time to time, with the previous sanction of the • [Administrator] and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act. (2) The rules made by • [Administrator] for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers. (3) All debentures issued by the Board shall be in such form as the Board with the sanction of • [Administrator], may from time to time, determine. (4) Every debenture shall be Signed by the • [Executive Officer] (5) Loans borrowed and debentures issued under this section may be guaranteed by the • [Central Government] as to the repayment of principal and the payment of interest at such rate as may be fixed by the • [Central Government]

61. Accounts and Audit.- (1) The Board shall cause to be maintained proper books of accounts and such other books as the rules made under this Act may require and shall prepare in accordance with such rules an annual statement of accounts. (2) The Board shall cause its accounts to be audited annually by such persons as the • [Administrator] may direct. Substituted by Chd. Admn. GM- Notification dated 13-3-1975 at para-4-35 1, Substituted by Hr. Act No. 27 of 1980 as extended to Chandigarh 2. Omitted vide Chandigarh Administration Gaz Notification dated 13-3-1975 at page 3d-3S 520 Haryana Housing Board Act, 1971 (as extended to Chandigarh) (3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together With a COPY Of the report Of the auditor thereto to the • [Administrator]; and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price. (4) The Board shall comply with such directions as the • [Administrator] may after perusal of the report of the auditor, think fit to issue

62. Concurrent and special audit Of accounts.— (1) Notwithstanding anything contained in section 61. the • [Administrator] may Order that there shall be concurrent audit of the accounts of the Board by such person as it thinks fit. The • [Administrator] may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series Of transactions or to a particular period. (2) Where an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1), such information as he may require for the purpose of audit. — (1) The • Administrator may 63. Transfer of assets and liabilities. transfer to the Board building, land or any other property, movable or immovable, for use and management by the Board on such conditions and limitations as the • [Administrator] may deem fit, for the purposes of this Act. (2) The • [Administrator] may transfer to the Board such schemes or works in progress, with all their assets and liabilities as are run or managed by the • [Administrator], subject to such conditions and limitations the • Administrator may deem fit to impose for the purposes of this Act, CHAPTER VI Miscellaneous 64. Report. — The Board shall, before such date and in such form and at such intervals as may be prescribed, submit to the • [Administrator] a report on such matters as may be prescribed, and the • Administrator shall cause such report to be published in the • [Chandigarh Gazette]

65. Statements and returns.- The Board shall submit to the '[Administrator] such statistics, returns, particulars or statements in regard to any proposed or existing housing schemes at such times and in such form and manner as be prescribed or as the • (Administrator] may from time to time direct

66. Power to entry.- The '[Chief Executive Officer] or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order (a) to make any inspection, survey, measurement, valuation or inquiry; (b) to take levels; (c) to dig or bore into sub-soil; (d) to set boundaries and intended lines of work; (e) to make such levels, boundaries and lines of works and cutting trenches; * Substituted by Chd. Admn. Gaz Notification dated 13-3-1975 at page 34-35 I. Substituted by Hr. Act NO. 27 Of 1980 as extended to Chandigarh dated 24/1/1991 (AR to Chandigarh) 521 (f) to do any other thing, whenever it is necessary to do so, for any of the purposes of this Act or any rules made or scheme sanctioned there under : Provided that— (i) no entry shall be made between sunset and sunrise; (ii) no dwelling house and no public building which is used as a dwelling place, shall be so entered, except with the consent of the occupier thereof, and without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry; (iii) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment occupied by women to remove themselves to some part of the premises where their privacy will not be disturbed; (iv) due regard shall always be had, so far as may be compatible with the exigencies of the purposes for which the entry is made, to be the social and religious usages of the occupants of the premises entered. 61 Notice of suit against Board. - NO person shall institute any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, Officer or servant or person concerned two months previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of

68. Triennial valuations of assets and liabilities of Board.- The Board shall triennially have a valuation of its assets and liabilities made by a valuer appointed with the approval of the '[Administrator] • Provided that it shall be open to the '(Administrator] to direct evaluation to be made at any time it may consider necessary. (68-A Delegation. - The Board may, by resolution, authorise that any power exercisable by it under this Act or the rules or regulations made thereunder, except the power to make regulations, may also be exercised by the Chief Executive Officer]

69. Member Officers and servants of Board to be public servants, - All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 70. Immunity. - No suit, prosecution or legal proceedings shall lie against any person for anything which is in good faith done or purported to be done under this Act

71. Power of Government to give direction to Board.- The • [Administrator] may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act? after giving int said objections and it shall be the duty of the Board to comply with such directions, • Substituted by Chd. Admn. Gaz. Notification dated 13-3-1975 at page 34-35 I. Inserted by Act No. 27 of 1980 extended to Chandigarh published on 2-4-1991 522 Haryana Housing Board Act, 1971 (as extended to Chandigarh) '[72. Control of Administrator Board. (1) The Administrator shall exercise superintendence and control over the Board and its officers and may call for such information as it may deem necessary and, in the event of his being satisfied that the Board is not functioning properly or is abusing its powers or is guilty of corruption or mismanagement, he may, by notification, suspend the Board; Provided that the Board shall be reconstituted within a period of one year from the date of its suspension in the prescribed manner. (2) When the Board is suspended under sub-section (1), the following consequences shall ensue, namely (a) all members of the Board and its committees, including the Chairman of the Board, shall, from the date of the notification, vacate their offices; (b) all powers, duties and functions, which under the provisions of this Act or any regulation made thereunder, are to be exercised by the Board or any committee thereof or by the Chairman of the Board, or by any other officer of the Board, shall, during the period of suspension, be exercised and performed by such person (to be called the Special Officer) as may be appointed by the Administrator in this behalf : Provided that the Special Officer may, subject to the

approval of the Administrator, delegate any of his powers, duties or functions to such other person as he may think fit ; (c) all properties, including the Board Fund, vested in the Board shall, until it is re-constituted, vest in the Central Government. 2K72•A. Appeal. - (1) Save as otherwise expressly provided in any other provision of this Act, an appeal shall lie from an original or appellate order of any officer of the Board or the Chairman under this Act or any rule or regulation made thereunder — (a) to the Chairman when the order is made by any officer of the Board ; (b) to the Board when the order is made by the Chairman. (2) Every such appeal shall be preferred within a period of thirty days of the date of communication of the order : Provided that the Chairman or the Board as the case may be, may entertain the appeal after the expiry of the period of thirty days if it is considered that the appellant was prevented by sufficient cause from filing the appeal in time.] COWMENTARY Alternative remedy - Civil writ - The new allottee of the house Obtaining an interim order restraining the allotment authorities from cancelling his allotment - The original allottee of the house not filing any appeal under section 72•A against the re-allotment of the house In the name of the new allottee - Plea of the allottee to the effect that the petitioner (original allottee) was not entitled to file a writ petition as an alternative remedy was available to him, is not tenable • Summer Chand Batt The Housing Board Haryana. 1984 H.R.R

9. Alternative remedy - Writ petition • It is settled law that an appeal against an order of Housing Board regarding cost of houses which is determined by the Board itself is not useful - It is only when an order is passed by the Chairman in his capacity as Chairman that the appeal lies to the Board - F.L. A.K. Rhosla S.I. 5718stlil'Cd by Hr. AVL No. 20 Of 1279 extended to Chandigarh published on 2-4-1991 page 333 2. Inserted by I'r. Act No, 26 Of 1976 as extended to Chandigarh published on 24.1991 page 335 Haryana Housing Board Act, 1971 (as extended to Chandigarh) S23 case (CWP No. 1895 of 1984) followed • Parmanand u The Chairman, Housing Board Haryana, 1996 HRR 559. — The petitioner, an Army Officer, made necessary deposits and was registered for the allotment of house - Failed to deposit the amount within stipulated period as the letter of demand could not be received at his village address - Circumstances for delayed deposit fully explained - Non speaking and brief order of cancellation on technical grounds cannot be sustained - Housing Board directed to allot the house to petitioner within 3 months - Existence of alternative remedy is no bar to seek the justice under Art. 226 of the Constitution • Jug Mohan Sharma u of Haryana, 1993 HRK 378. NATURAL JUSTICE — Allotment • The provisions of Regulation 6 (2) of Chandigarh Housing Board Regulation, 1979 undoubtedly authorise the Board to forfeit the deposit or to cancel the allotment in case the contents of the affidavit filed by the applicant are found to be false. However, it is an enabling provision - It is incumbent on the Board to examine the facts and circumstances of each case before passing any such order - Such an order cannot be passed mechanically - Where the petitioner was not given proper opportunity to explain her position about the alleged false statement, the order of cancellation and forfeiture was held not to be justified • Smr, Ram Dulvi Union Rrrlzory, Chandigarh, 1994 HRR 67 — Before a person is black listed by the authority, he must be given a notice Order without is against law and cannot be sustained - Raghu Nath Thakur v. state of Bihar, 1989 11.R.R

46. The rule of natural justice will apply unless application thereof is specifically ruled out by the Statute • State of Haryana v. Ram Fushan, ARK 1981 S.C. 1301. — Audi alteram partem - The Order, wherein Principle of audi alteram partem was not applied was held not maintainable - passed at the back of the affected person was set aside - Bachan Singh v. State of Punjab, 1988 PLJ 265. — Principle of Nemo iudex cause sua one should be made a judge in his own cause - A man cannot sit in judgment against his own order - Gurcharan Singh v. of Punjab, 1988 PLJ 471 D.B. and Sant Ram Y. State of Himachal Pradesh, AIR 1989 IS 111. — Rule of natural justice will apply where exercise of power under the Statute would result in civil consequences to citizen - Rules to be followed unless excluded by Statute itself - Daldev Singh v. Nater of Punjab, 1987 PLJ 240. Opportunity - Allotment must be by Authorities before cancelling the plot allotted to him Allotment in law is no ground for denying the opportunity of hearing - Shri State of Punjab, 1980 "LJ 13 - to allottee is essential before cancellation of allotment - Bir Singh of Punjab, 1982 PLJ 276. Jurisdiction - Order passed at the back of an interested person is without jurisdiction and can be challenged in Civil Court - Zbinder Kaur u M C. 1983 PLJ 336. Notice must be by the authority before recovering the arrears of loan dues of Jand revenue - Authorities not to be the Judges in their own cause - Singh State of Punjab, 1982 PLJ 305. Officer on original side Should never seek approval of his proposed orders from his superior, Appellate or revisional Officers - Tara Singh v. Mithu •

PLJ I '6. S2'l Haryant Housing Board Act, 1971 (as extended to Chandigarh) l[72-B. Revision. eThe Administrator may either suo moto or on an appli- cation of a parM call for end exam ine the record of any proceedings or decision or order passed by the Board, Chairman, Chief Executive or OMcer of the Board for the purpose of satis&ing itBlf ae to the legality or propriew of any decision or order puxsed and if in any it shall appear to the Adm.ntstrator that any such decision or order should be modified, annuled or reused, the Administra- tor may, After giving the person* affected thereby an opportunity of being heard, pass such order thereon as It may deetn fit.] 13. Power to make rules. - (1) The 'EAdminisEatorl may, by notification end subject to Lhe condition of pæyious publisation, make rules foc out the purposes of this Act. (2) particular and without prejudice to the generality of the tōregoing power, such rules may be made fora!' or any ot the following purposes, narnoly— (a) the salary, allowances and conditions of service of members under section 7; (b) the manner and fom in which eonttgcts shall be entered into under swLiun 18; (c) the form of annual housing programme, budget and schedule of staff officers and servants. paniculars of housing *hemes and other particulars to be contained in the programme under section 23; d) ttv fosh of notice under section 41 ; c) Ehe rate of interest under section 42 ; (D the forms Of notice under sections 51 and 52 and any other manner in which they may be served; (g) the pmcedure to be followed in nking possession of any Board premises nnder section 51; (h) the manner in which dmnages under scetion \$2 may be assossod; (i) the mRnner in which appeals may be preferred under sect;on 54 and the proccure to be followed in such appeals; (j) the conditions subject to which the Board may borrow any sum under section 60; (k) the manner of preparation. maintenance and publication of accounts under section 61; (l) the date before which, the form in whlch, the interval RI which and the matter on which reports shall be submitted undel 64; (m) thc time at which and the fom and manner In whleH QtiKtics, returns. particulars arid statement shall be submitted under 63; (n) lhe Ilianner in which the Board shall be superseded and Nconstitued under section 72; (O) speei&ing the bye-laws contravention of any of which shall be an otTenee; and (p) any other matter which is be or mmy be preserlbed under this Act. • Substituted by Chd. Adma. Gu- NotifimLloa daWd 13-3-1973 at pag034-35 l. IIBenedby Hr. Act NO. IO of t 986 aextended Chandim*h ublishedon 2-42199 L 2. Outittod Vide Chd, Adma. Caz. (Extra) Notification dated t*J-3-R9'S at page 34-33 Haryana Housing Board Act, 1971 (as extended to Chandigarh) 525 74. Regilationw. - The Board may. tiam time to time with the previous sanction otthe ' [Administrator] by notification, make regulations consistent with this Act and with any rules made thereunder, - (a) for the rnanagement and use ofbuildings constructed under any housing scheme; (b) the principles to be followed in allounent of tenement and premises: and (c) for regulating its procedure and tbc disposal of its bus;ness

75. Power to make bye laws. - (1) The Board may make bye-laws, not inconsistent with this Act and the rules and Tegulationg made thereunder. which may be necesnry or expedient 6r punoe of carrying out its duties and functions under this AOL. (2) No bye-laws made by the Board shall come into force until it has been confirmed by the • [Administrator] with or without modification. (3) All bye-laws rmade under th;s section shall be published in the '[Chandigarh Gazette]

76. Penalty for contravention of bye-laws.' - Whosoever contravenes a bye-law made under section 75 the contravention of which is prescribed as an offence shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with boll

77. Penalty for obstructing etc.- If any person - (a) obstructs any perspn ""th whom the Board bas entend into n contract, in the performance or execution by auch person ofhis duy Of n g which he ls empowered or requited to do under this Act; or (b) removes any mark set up for thc purpose of indicating any level diaction necessaw to the exeeution of works authorised under Ihis Aot; he shall, on conviction, be punish"! with ünpcisonment for a ter:n which extend to one month or with fine which may extend to nye hundred rupegs or bodl

78. Amkor? far prosecution.• Unless otherwise provided, no court take cogniunoeo any offence punishable under this Act except on the camplainc of. or upon information received from the Board or some person authorised by tbc Board, by general ot special order, in thig behalf. '9. Reglstradan of documents executed on behar af Board. - (1) NOI- withstanding anything contained in the Indian Registration Act. 1908 (Central Act XVI of 90S), it shall not be necessary for the C.hairrnan to appear in person or by agent at any regieyation omeer in any proceeding connected with registration of any

insUtntent by him in his official gapaciw on behalf of the Board or to sign as provided in section SB of thatAct. (2) Where any instrument is so executed, the registration officer to whom such instrument is presented foe regis&.tion may, if he thinks fit refer to tho Chairman information respecting the 5ä.rne, and on being satisKcd of the ex- ecution thereof, shall register the Instrument. Substituted by Ciud. Adlöö. GM. du.LCd 13•3-1975 at page 34.35 526 Haryana Housing Board Act, 1971 (as extended to Chandigarh) 80. Dlssotwtlon ofBoard. (t) The State Government may be notification declare that with effect from date as anay be speeified in the notification, the Board shall be dissolved. (2) With effect from the date specified in the notification under sub-section (a) all properties, funds and dues which are vested in and realieable by the Board shall vest in and be realisable by the • [Cental Government]; (b) all liabilities cnforooabl. againet dw Beard shall be enforceable agalnst the ' [Central Government] to the extent of the properties, funds and dues vested in and realised by the • [Central Government]. (3) Nothing in this section shall affect the liability of the • [Central Govern- ment] in respect of loans or debentures guaranteed under snh-seetinn (5) nf 'ion 60. 81 e Removal of difficulties. - (1) if any difficulb' arises in giving effect to the provisions of this Act, in consequence nf the irnnstition to the said provisions from the provisions of the Acts in force immedt8tely before the commencement ofthis Act, the ' [Admini*htÖrJ may by make such provisions as appear to it to be necessary or expedient for removing the diffeultly, (2) If any di (Ttoulty arises in ßiving effect to the provisions ofthis Act other• wise than in relation to the transition from the provisions OF the Acts in force before Lhe commencement of this Act. the '[Administrator] may by notification make suelt provisions, not inconsistent with the provisions ofthis Act. as appear to it to be n.ecessary or expedient for emoving the difficulb'. • Substituted by Chd. Admn. Notification datd 13-3-1975 at page 34-35 l. Omitted Yidg Cad. Admn. ("Xtra) 13-3-1975 at page 34•3S

