



*Government of Jammu and Kashmir,
Housing & Urban Development Department,
Civil Secretariat Jammu/Srinagar*

Subject:- Implementation of Judgment/Order dated 28-02-2017 passed by the Hon'ble High Court of Jammu and Kashmir (Jammu Wing) in OWP No. 850/2016 titled Irshad Hussain Shah V/s State of J&K & Ors.

Govt. Order No: 182-HUD of 2017
Dated:- 22 -08-2017

Whereas, the Jammu Development Authority vide advertisement Notice No. DIP/J-1467-P dated 11-01-2014 published in the daily newspapers invited applications from permanent residents of Jammu & Kashmir State for allotment of plots on lease basis in Roop Nagar Housing Colony, Jammu;

Whereas, in pursuance to above mentioned Notice Mr. Irshad Hussain Shah had applied for allotment of plot;

Whereas, Sh. Irshad Hussain Shah was declared successful in draw of lots and was allotted Plot No. A-13 in Sector No. 7 measuring 40' x 80' at a premium of Rs. 14.25 lacs;

Whereas, Sh. Irshad Hussain Shah deposited the whole amount of premium and accordingly lease deed was executed and registered in the court of law on 10-01-2015;

Whereas, the JDA also published notice vide JDA/CA-23 dated 15-07-2014 in the daily newspaper inviting applications from residents of Jammu and Kashmir including persons belonging to different categories including the category of severely disabled persons/handicapped persons prescribed in the Govt. Order No. 192-HUD/GR of 1991 dated 12-09-1991 for the allotment of residential plots at Birpur Housing Colony, Kot Bhalwal Housing Colony, Gole Gujral Housing Colony and Roop Nagar Housing Colony;

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Whereas, one of the successful allottees namely Smt. Veena Kumari who applied in pursuance to notification No. JDA/CA-23 dated 15-07-2014 in the category of severely disabled person/handicapped person filed writ petition being OWP No. 20/2015 before the Hon'ble High Court at Jammu praying therein that she is 100% physically disabled and sought concession with regard to payment of premium for the plot of land allotted to her in Birpur Housing Colony under the provision of Persons with Disabilities Act, 1998;

Whereas, the Hon'ble High Court on 20-03-2015 disposed of the writ petition and the operative portion of the order is reproduced as under:-

"On the consent of the parties, the petition is taken on board for final disposal. In view of the undertaking, the writ petition is disposed of with a direction to State Government to consider and frame an appropriate policy in keeping with the mandate of Section 32 of the Persons with Disabilities Act, 1998, for grant of concession to persons such as the petitioner and similarly situated within a period of 8 weeks from the date, certified copy of the order is supplied. Learned counsel for the Jammu Development Authority undertakes that till such time that policy is not framed, the petitioner shall not be subjected to any penal consequence nor shall be required to pay interest for delay in payment of premium.

Social Welfare Department and Jammu Development Authority to do the needful as per the aforementioned directions."

Whereas, in compliance to the directions passed by the Hon'ble High Court in OWP No. 20/2015 as well as Section 32 of the persons with Disabilities Act, 1998, Govt. Order bearing No. 232-HUD of 2015 dated 07-10-2015 was issued wherein the provisions for concessional rates for allotment of residential plots in favour of disabled/handicapped persons were reserved;

Whereas, the Vice Chairman, JDA vide letter No. VC/PS 2015/764 dated 26-10-2015 sought clarification with regard to Govt. Order No.



232-HUD of 2015 dated 07-10-2015 and the Administrative Department vide letter No. HUD/Adm/135/2015 dated 31-12-2015 clarified that the benefit of Govt. Order referred supra be extended in favour of the petitioner in OWP No. 20/2015 as well as all other similar situated persons who applied for allotment in response to notification No. JDA/CA-23 dated 15-07-2014 issued by the JDA;

Whereas, Mr. Irshad Hussain Shah also filed writ petition bearing No. 850/2016 before the Hon'ble High Court and the Hon'ble High Court on 01-06-2016 directed respondent No. 1 and 2 i.e. Commissioner/Secretary to Govt. H&UDD and Chairman, Jammu Development Authority (Hon'ble Deputy Chief Minister, Minister I/C H&UDD) to consider the representation filed by the petitioner on 23-04-2016 for extension of benefits of Govt. Order No. 232-HUD of 2015 dated 07-10-2015 within notice period;

Whereas, the allotment of plot in favour of Mr. Irshad Hussain Shah has been made in response to the notification No. DIP/J-1467-P dated 11-01-2014 which is prior to the notification No. JDA/CA-23 dated 15-07-2014 and the allottee of Notification No. JDA/CA-23 dated 15-07-2014 only have been covered under Govt. Order No. 232-HUD of 2015 dated 07-10-2015 prospectively;

Whereas, the notification bearing No. DIP/J-1467-P dated 11-01-2014 where-under Sh. Irshad Hussain Shah had applied is not covered under the provisions of Govt. Order No. 232-HUD of 2015 dated 07-10-2015. Moreover, Mr. Irshad Hussain Shah got the allotment of plot not on the basis of the category of severely disabled person/handicapped person, but got the allotment of plot on the basis of general category;

Now, therefore, in compliance of the directions of the Hon'ble High Court, the request of Mr. Irshad Hussain for extension of benefit of Govt. Order No. 232-HUD of 2015 dated 07-10-2015 in his favour was considered in the department and found devoid of merits, hence rejected.

By order of the Govt. of Jammu & Kashmir.

Sd/-

(Hirdesh Kumar Singh)IAS

Commissioner/Secretary to Government,
Housing & Urban Development Department.

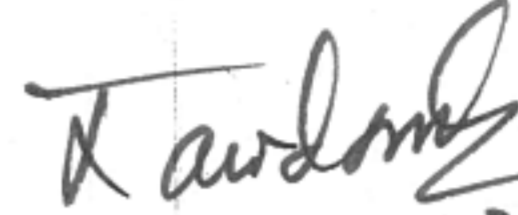
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No:- HUD-01/2016/JDA/Legal

Dated:- 22-08-2017


Copy to the:-

1. Secretary to Government, Department of Law, Justice and PA.
2. Vice Chairman, Jammu Development Authority.
3. OSD to Hon'ble Deputy Chief Minister (Minister I/C H&UDD).
4. OSD to Hon'ble Minister of State for H&UDD.
5. Sr. Law Officer, H&UDD.
6. Pvt. Secretary to Commissioner/Secretary to Govt. H&UDD.
7. Mr. Irshad Hussain.
8. Govt. Order (w.s. 2).


22/08/17

(Javid Rehman)

Under Secretary to Government,
Housing & Urban Dev. Department


21/8