

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of Decision: 07.01.2015

CWP No.1746 of 1988

Smt. Manjit Kaur

...Petitioner

Versus

The State of Punjab & others

...Respondents

CWP No.1756 of 1988

Baljinder Singh

...Petitioner

Versus

The State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Gurcharan Singh Gandhi, Advocate, for the petitioner.
Mr. Manoj Bajaj, Addl. AG, Punjab, for respondent No.1.
Mr. Balwinder Singh, Advocate, for respondent No.3.

HEMANT GUPTA, J.

This order shall dispose of aforementioned two writ petitions i.e. CWP No.1746 of 1988 and CWP No.1756 of 1988, raising identical questions of law and facts, wherein challenge is to the decision of the Committing finding the project of the petitioners for allotment of a plot as not suitable. For facility of reference, the facts are being taken from CWP No.1746 of 1988.

On 23.01.1984, respondent No.2 - Punjab Small Scale Industries & Export Corporation Ltd. (for short 'the Corporation') published an advertisement in the newspaper 'The Tribune' inviting applications for the allotment of plots on free-hold basis at S.A.S.Nagar, Mohali under 'Self Financing Scheme'. The applications for allotment of plots were to be

submitted in prescribed form. The petitioner submitted an application for allotment of 1 kanal plot alongwith 10% of the tentative price of the plot as earnest money. One of the conditions in the advertisement was that allotment will be made within 2 years of the last date of the receipt of application. It was also stated that if the scheme is not taken up due to unforeseen reasons, the money shall be refunded within 3 months after the last date of acceptance of the applications without interest.

The petitioner was informed on 04.09.1987 that it has been decided to allot a plot to the petitioner by way of a draw of lots, which will be held on 12.09.1987. However, on 11.09.1987, the petitioner was informed that the project for which the petitioner had applied has not been found suitable by the Allotment Committee. The relevant extract from the letter dated 08.09.1987 (Annexure P-5), which was received by the petitioner on 11.09.1987, reads as under:

“In connection with the subject cited above, I regret to inform you that your project has not been found suitable by the Allotment Committee constituted for the purpose, for the allotment of an Industrial Plot at SAS Nagar, Phase IX. The earnest money deposited by you will be refunded on receipt of request from you alongwith original receipt. This is for your information.”

It is, thereafter, when the representation of the petitioner for allotment of the plot was not considered, the petitioner filed the present writ petition challenging the decision dated 08.09.1987, as reproduced above.

In the written statement filed on behalf of respondent No.2, it has been pointed out that the Allotment Committee of six Members consisting of Director of Industries, Senior IAS Officer as Members and one Chief Engineer as Member Secretary was constituted. To examine the viability and suitability of the projects keeping in view their technological significance and sophistication in terms of the Government

Instructions/Policy, such Allotment Committee constituted a sub committee consisted of Industrial Advisor & Additional Director of Industries; Punjab Chief Town Planner, Punjab; Chief Engineer of the Corporation and Joint Director, Industries (Monitoring), Punjab. Such sub Committee scrutinized the various project reports submitted by the applicants and excluded the projects consisting of workshops, fabrication works, printing presses, flour mills and saw mills, oil expellers, pollution creating industries like zinc sulphate and drugs etc., retreading tyre manufacturing etc. and corrugated boxes board and furniture, as the same were not found suitable as compared to the projects relating to the latest and sophisticated technology.

In the rejoinder, the petitioner has attached the list of 100 project profiles available in the Department of Industries, Punjab. The petitioner has also attached the information obtained by her under the Right to Information Act, 2005, which includes the information to the effect that the entire record of respondent No.2 was entrusted to Mr. Rajeev Mittal, Advocate, who died on 07.03.1995. After his death, several files/documents could not be traced from his office/residence including the application and project report of the petitioner. Annexure P-23 is communication dated 27.10.1986 from the Director of Industries, Punjab to the Managing Director, Punjab Small Industries & Export Corporation Ltd., Chandigarh to the effect that as the number of applicants are much more than the number of plots, therefore, after the scrutiny by the sub-Group about the technical feasibility of the projects submitted by the applicants, the allotment of plots may be made by the draw of lots from amongst the applicants, whose projects are found to be viable.

In the present writ petition, the petitioner has not disclosed that as to what was the project, which she intended to set up, but during the course of arguments, a reference was made that the project was to set up a

manufacturing unit for the corrugated boxes. The said project has been excluded by the sub-Committee constituted to examine the viability and suitability of the projects.

By submission of an application, the petitioner does not get any vested right for allotment of a plot. We do not find any error in the decision of the Corporation to constitute a technical sub Committee to find out the viability of the projects submitted by the entrepreneurs. Since the project report of the petitioner was not found technically suitable, we do not find that such decision can be said to be unwarranted or irrational in the absence of any other material on record. The petitioner has not disclosed in the writ petition, any detail of the project, which she intended to set up. Therefore, the decision of the Committee, as averred in the written statement that the project was not found suitable, cannot be said to be unjustified, when the categorical assertion on behalf of the respondents that the record has been misplaced from the office/residence of its earlier Advocate namely Mr. Rajeev Mittal. The decision as to which industry should be permitted to be set up has not been disputed by the petitioner nor such decision can be made subject matter of judicial review, which was taken after considering the nature of industries, which the Corporation wanted to set up in the area.

In view of the above, we do not find any merit in both the writ petitions. The same are accordingly dismissed.

(HEMANT GUPTA)
JUDGE

07.01.2015
Vimal

(HARI PAL VERMA)
JUDGE