

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No. 7669 of 2001**

**Date of Decision: 05.02.2015**

Arun Kumar Jain

....Petitioner

Versus

Haryana Urban Development Authority and another ...Respondents

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

Present: Mr. Arun Kumar Jain, Petitioner-in-person.

Mr. J.P. Bhatt, Advocate for HUDA.

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**HEMANT GUPTA, J.(ORAL)**

The challenge in the present writ petition is to the policy of reservation of plots to the oustees and to the Government employees by setting aside the Regulation 5(3) of Haryana Urban Development Authority (Disposal of Lands and Buildings) Regulations, 1978 and directing the respondents to allot 47 plots of 10 marlas in Sector 15 at Panchkula, under the general category.

The petitioner applied for a plot of 10 marlas in Sector 15, Panchkula as a general category candidate, which were advertised by Haryana Urban Development Authority (HUDA). HUDA was established under HUDA Act, 1977. For the purpose of disposal of lands and buildings, HUDA had framed Haryana Urban Development (Disposal of Lands and Buildings) Regulations, 1978 (for short the "Regulations"). Regulation 5(3) provides for reservation of plots to groups or individuals or for persons practicing any profession or carrying on any occupation, trade or business or for such category of persons, Government departments, institutions, as

may be decided by the Authority. The relevant clause reads as under:-

*“5. Procedure in case of sale or lease of land or building by allotment-*

*(3) In the case of residential plot/building when the application has been so tendered, the Estate Officer or such other officer as may be empowered, shall subject to such directions as may be issued by the Authority in this behalf consider the applicant for allotment of a plot or building of the size applied for. The allotment may be on 'first come first served' basis or by draw of lots, as may be determined by the Authority and the successful applicant shall be sent allotment letter, in form 'C' or 'CI', by registered post; provided that for the purposes of proper planning and development of an urban estate, land or building may be reserved for groups or individuals or for persons practicing any profession or carrying on any occupation, trade or business or for such category of persons, Government Departments and Institutions, charitable institutions and other organizations of public welfare, as may be decided by the Authority from time to time.”*

It is pointed out that the Authority had earmarked lands to various Cooperative Societies constituted by groups of persons including of the employees of various corporations and departments of Haryana Government, Army personnel and persons from other professions. It is also pointed out that the policies have been framed by the Authority to allot the plots to the oustees whose land stands acquired for the purpose of development of urban estate and such policies have been revised from time to time.

It is further pointed out that in the month of November, 2000, the respondent floated a scheme for sale of 47 plots of 10

marlas in Sector 15, Panchkula. Out of such 47 plots offered for sale by way of allotment, 37 plots were meant for general category, 5 plots were reserved for Haryana Government employees, 4 plots were reserved for defence personnel/Ex-servicemen/their widows and one plot was reserved for Para-military forces/personnel. The reservation of plots has been challenged on the ground that it violates the rights of the petitioner.

The stand of the respondent taken in the written statement is that reservation of the plots has been made for the oustees and for other categories of persons as per the policy of HUDA, as amended from time to time. The categorization and reservation thereof is based on reasonable classification in terms of the Constitution of India. It is also pointed out that while inviting applications from general public, the plots were also offered to the oustees of Sector 15, Panchkula, who were required to submit their applications along with general public. It has been pointed out that the reservation of plots to the landowners, whose land stands acquired, is based upon intelligible differentia.

The right of landowners whose lands stand acquired for the purpose of development of urban estate and pursuant to which, allotment of plots was made to them, as a part of rehabilitation process, has been considered by a Division Bench judgment of this Court in LPA No. 2096 of 2011 titled as **“Haryana Urban Development Authority and others Vs. Sandeep and others”**, decided on 25.04.2012, wherein it has been held that the policy of allotment of plots to the oustees is a public purpose for rehabilitation of the landowners and such policies have been found reasonable. It has been held that the landowners whose lands stand acquired by HUDA, can be provided plots as a category but

reservation of such category including reservation of all other categories cannot exceed 50% of the plots carved out. In the aforesaid judgment, it was held as under:-

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*The oustees, whose land has been acquired either for residential, commercial, institutional or any other purpose, form a separate and distinct category and are entitled to be considered for allotment of a plot, as a part of rehabilitation process. It is not disputed by any of the parties that oustees form a well defined category for which the reservation to achieve the larger social objective of rehabilitation is warranted. Therefore, for such category, there could be reservation for plots. A Full Bench of this Court in Jarnail Singh & others Vs. State of Punjab & others AIR 2011 Punjab and Haryana 58, while considering question No.1, returned a finding that the policy contemplating the plots for oustees is nothing, but a reservation of plots for such class. Question No.3 formulated therein was; whether certain percentage of plots is required to be reserved for oustees or that the oustees are entitled to preferential allotment of plots first without allotting the same to the general public? It was held that the reservation in respect of the constitutionally permissible classes can be only within the limit of 50% of plots for the reason that reservation in excess of the upper limit contravenes the mandate of Article 14 of the Constitution.*

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*In view of the aforesaid decisions and the fact that none of the learned counsel for the parties disputed such principle of law in respect of upper limit on reservations, the plots for the oustees including all other constitutionally permissible classes of reservation cannot exceed 50%.”*

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In view of the said judgment, the challenge to the plots reserved for the landowners whose land stands acquired cannot be sustained.

Further, there is no specific challenge to the reservation of plots for the Government employees, but suffice it to say that the Government employees also constitute a category for which reservation has been provided. Since there is no specific challenge in

the writ petition and only prayer has been made, we do not wish to examine the reservation for the Government employees in the present writ petition in detail.

Consequently, we do not find any merit in the present writ petition and the same is dismissed.

**(HEMANT GUPTA)**  
**JUDGE**

**(HARI PAL VERMA)**  
**JUDGE**

*February 05, 2015*  
*Anjal*