

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 19.02.2015

C.W.P.No.2295 of 2002

Bishamber Singh

...Petitioners

Versus

State of Haryana & others

...Respondents

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

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Jai Vir Yadav, Advocate, for the petitioner.

Mr. Lokesh Sinhal, Addl. AG, Haryana, for respondent Nos.1 & 3.

Mr. Manoj Sood, Advocate, for respondent No.2.

HEMANT GUPTA, J. (ORAL)

The petitioner has invoked the writ jurisdiction of this Court for directing the respondents to allot a plot to the petitioner for setting up of a stone crusher.

The petitioner was granted a license to settle the crushing unit at Village Rajokari by Delhi Municipal Corporation, New Delhi on 11.07.1985. However, all the stone crushers including the stone crusher unit of the petitioner became subject matter of challenge in public interest litigation before the Hon'ble Supreme Court. The Supreme Court on 15.05.1992 ordered that all the stone crushers in the Union Territory Delhi and Faridabad-Ballabgarh Complex be stopped functioning/operating with effect from 15.08.1992. It was also ordered to allot alternate plots with the object to rehabilitate the existing stone crushers pursuant to the statement made on behalf of the State of Haryana to the effect that it has established a new

crushing zone at village Pali. The Supreme Court issued direction No.7, which reads as under:

“(7) The officers of the Town & Country Planning Department, Government of Haryana, who were present in Court, informed us that a new crushing zone has been approved at village Pali and the lay out plan has been prepared and is in the process of demarcation by the Haryana Urban Development Authority. The said ‘crushing zone’ has been set up with the object of rehabilitating the existing stone crushers, who are being stopped from functioning, as a result of our orders. We, therefore, direct the State of Haryana through the Director, Town & Country Planning Department, Haryana, Chandigarh; the Chief Administrator, Faridabad Complex Administration; the Deputy Commissioner, Faridabad and the Haryana Development Authority to demarcate and allot the sites to the stone crushers mentioned in paras 1, 2, 4 & 5, above by draw of lots or by any other fair and equitable method. We further direct these authorities to provide additional land in or around the ‘crushing zone’ if there is no sufficient land in the said zone to accommodate all the stone crushers affected by our orders. This exercise be completed and plots offered to the stone crushers within a period of six months from today. The Director, Town & Country Planning Department, Haryana, Chandigarh is further directed to send a progress report to the Registry of this Court before July 31, 1992 in this respect.”

It is the stand of the petitioner that all the crushing units, which were ordered to be allotted plots, have been allotted alternative plots, but the petitioner has not been allotted a plot though he submitted an application (Annexure P-3) for a plot for stone crusher situated at Village Pali. However, the application of the petitioner was not entertained for the reason that such application was not accompanied the requisite earnest money. Thereafter, in pursuance of an advertisement inviting applications for allotment of plots at Village Dhauj, Tehsil & District Faridabad, the petitioner applied on 27.09.2001 along with earnest money of Rs.2,37,000/-. One of the terms &

conditions of the application was that the applicant shall be interviewed by the Committee constituted for the purpose. The relevant condition reads as under:

“9. The applicants will submit complete applications and shall be interviewed by the Committee constituted for the purpose. The decision of the Committee for allotment of the plot shall be final.”

The petitioner was called for interview vide communication dated 23.01.2002 (Annexure P-5), but the petitioner challenged the process of interview by way of the present writ petition. It is contended by the learned counsel for the petitioner that the petitioner is entitled to a plot without any interview. The petitioner did not appear for interview.

In the written statement, the stand of respondent No.2 is that the applications of the stone crusher owners, who did not apply for allotment of plots within the extended period by the Supreme Court, were rejected by the Supreme Court. It is pointed out that the petitioner did not apply within the extended period along with earnest money. It is also pointed out that respondent No.2 has not developed any new stone crusher zone at Village Dhauj, District Faridabad, which is in fact being developed by Haryana Urban Development Authority.

Learned counsel for the petitioner relies upon an order passed by the learned Single Bench in CWP No.15242 of 2001 titled 'M/s Mahalaxmi Stone Crushing Co. and others Vs. State of Haryana and others' decided on 21.03.2009, wherein the condition of interview was found to be not tenable.

In the said case, the learned Single Bench returned a finding that all the stone crusher owners, who have been directed to close down their units, are entitled to allotment of a plot even after acquisition of additional land. The learned Single Bench was also considering set of applicants, who had applied after new siting parameters in terms of the notification dated

18.12.1997 were laid down. The petitioner, in the present case, did not submit earnest money for allotment of a plot alongwith the application in the stone crushing zone at Village Pali. Therefore, the mandate to allot plot to all those stone crushers, who were operating in the Union Territory of Delhi, do not arise in case of the petitioner. The petitioner has failed to show his willingness for the allotment of plot at Village Pali, in terms of the directions of the Supreme Court. Apart from the said fact, the direction of the Hon'ble Supreme Court itself contemplates allotment of plot by draw of lots or by any other fair and equitable method. Since the petitioner did not apply, there was no question of holding of draw of plots for him.

It was in pursuance of the subsequent advertisement issued in the year 2001, the petitioner applied. The Single Bench was not examining the conditions of advertisement, the issue under consideration being the new siting parameters in terms of the notification dated 18.12.1997. Still further, the petitioner has applied for allotment of a plot on an application of which Condition No.(9) was an integral part. Once the petitioner has submitted an application, he cannot turn around to say that he should not be interviewed in terms of the terms & conditions of advertisement. The process of interview is a process to adjudge the capacity and suitability of an applicant for allotment of a plot and of size for which the applicant may be aspirant. Therefore, to say that condition of interview in respect of a plot/site being developed is contrary to the order of the Supreme Court is unwarranted.

Thus, we find that the order of the Supreme Court does not bar the respondents or the Haryana Urban Development Authority to conduct interview or that the petitioner can be permitted to dispute the condition of interview having submitted an application containing specific condition in respect of interview.

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

(HEMANT GUPTA)
JUDGE

19.02.2015
Vimal

(HARI PAL VERMA)
JUDGE