

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10172 of 2014

Date of Decision: 4.8.2015

Sunehra Singh and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. K.S. Banyana, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. P.K. Longia, Advocate for respondents No.2 and 3.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of two petitions bearing CWP Nos. 10172 and 24701 of 2014 as according to the learned counsel for the parties, the issues involved therein are identical. For brevity, the facts are being extracted from CWP No. 10172 of 2014.

2. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus directing the respondents to permit the petitioners to deposit the installments without interest in view of order dated 16.8.2013 (Annexure P-3) without any undertaking and further not to declare the petitioners as defaulters as they are ready to deposit the installments in view of order, Annexure P-3.

3. Put shortly, the facts necessary for adjudication of the instant petition as narrated therein may be noticed. The respondents advertised for open auction of the plots of shops and booths in extension New Grain Market and New Subzi Mandi, Pundri, District Kaithal. The bid had taken place on 23.7.2012 and the petitioners were allotted plots vide allotment orders dated 8.3.2013 (Annexures P-1 and P-2, respectively). Petitioner No.1 allotted Plot No.31, measuring 20' x 85' at a price of ₹ 87,31,000/- whereas petitioner No.2 was allotted plot No. 57 measuring 20' x 50' at a price of ₹ 61,71,000/-. The 25% of the allotment price of the plots has been paid by the petitioners and the balance 75% has to be paid in six half yearly installments. The Pucca Aarthi Association, Pundri filed a representation before respondent No.2 claiming that the incentive be granted to them by waiving off interest in terms of Clause 14 of the Policy as they have completed the construction and have started the business. Respondent No.2 vide order dated 16.8.2013 (Annexure P-3) permitted the allottees to deposit the installments without any interest till the decision of the representation by the Board of Directors. In pursuance thereto, respondent No.3 had accepted the first installment of the petitioners due on 1.9.2013 without interest. At the time of deposit of second installment due on 1.3.2014, respondent No.3 refused to accept the installment without any interest and asked the petitioners to submit an undertaking by way of affidavit, Annexure P-4, that they would deposit the 3rd installment due on 1.9.2014 along with interest of first and second installments and penal interest (15% + 4% = 19%) as per the conditions of the allotment letter if the decision of the pending case before the Haryana State Agricultural Marketing Board went against them. The petitioners submitted

representations dated 1.3.2014 (Annexures P-5 and P-6, respectively) to respondent No.3 for deposit of installments without interest in view of order dated 16.8.2013 (Annexure P-3), but no response has been received till date. Petitioner No.1 moved an application dated 21.8.2013 (Annexure P-7) under the Right to Information Act, 2005 about storage of bags of wheat on the feed of new extension Grain Market and on the way of the plots. The reply, Annexure P-8, was received that in the New Grain Market, Pundri, total 340162 bags were stored by the Food and Supplies Department in the year 2012-13. Hence, the present writ petition.

4. The writ petition was contested by respondents No.2 and 3 by filing written statement. It was pleaded that the petitioners inspite of depositing the balance installments in time started making excuses for non-payment of installments by relying upon the policy and for seeking waiver of interest on the installments. The issue regarding waiving of interest as incentive provided under Clause 14 of the Policy was placed before the Board of Directors vide Agenda Item No.14 dated 28.3.2012 and the Board of Directors had decided that no incentive by waiving of interest shall be granted to the allottees whose allotment is made on or after 12.9.2011. The petitioners were allotted plots vide allotment letters dated 8.3.2013, i.e. much after 12.9.2011, the cut off date provided for the grant of incentive.

5. We have heard learned counsel for the parties and perused the record.

6. After hearing learned counsel for the parties, we dispose of the writ petition with the following directions:-

(i) The decision shall be taken by the Board of

Directors of Haryana State Agricultural Marketing Board, Panchkula, in accordance with law, in terms of order dated 16.8.2013 (Annexure P-3) within a period of three months from the date of receipt of certified copy of this order;

(ii) The petitioners are at liberty to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before respondent No.2. It is directed that in the event of a representation being filed by the petitioners within a period of one month from today, the same shall be decided by the Board of Directors of Haryana State Agricultural Marketing Board, Panchkula in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of three months from the date of receipt of the representation;

(iii) This Court vide order dated 23.5.2014 while issuing notice of motion had directed the petitioners to deposit the due amount but without insisting to file affidavit (Annexure P-4). The petitioners shall be entitled to deposit the due amount but without insistence to file affidavit and without interest which shall be subject to the final outcome of the

representation which shall be filed by the petitioners and without prejudice to the rights of both the parties.

7. The writ petitions stand disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

August 4, 2015
gbs

(SHEKHER DHAWAN)
JUDGE

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 24701 of 2014

Date of Decision: 4.8.2015

Jagdish Kaur and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. K.S. Banyana, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. P.K. Longia, Advocate for respondents No.2 and 3.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 10172 of 2014 (Sunehra Singh
and another v. State of Haryana and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

August 4, 2015
gbs

**(SHEKHER DHAWAN)
JUDGE**