

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10390 of 2014

Date of Decision: 30.3.2015

M/s R.V. Traders Co., Pathankot

....Petitioner.

Versus

State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE REKHA MITTAL.**

PRESENT: Mr. Sachin Luthra, Advocate for the petitioner.

Mr. Rajesh Bhardwaj, Addl. Advocate General, Punjab.

Mr. S.C. Pathela , Advocate and
Ms. Kavita Arora, Advocate for respondents No.2 and 3.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus directing the respondents to consider its case for regularization of the allotted shop in the possession of the petitioner in view of policy/resolution dated 26.7.2011 (Annexure P-5) of the respondents as has been done in the case of similarly situated shop owners in view of letter dated 27.9.2011 (Annexure P-7).

2. The Improvement Trust, Pathankot (in short "the Trust") made allotment of the shop/booth sites under APK Road Scheme by way of open auction held on 21.2.1996. The petitioner being the highest bidder was allotted a shop site bearing No. 76F vide allotment letter dated 10.6.1996 (Annexure P-1). The total bid amount was ₹ 1,32,000/-

and the petitioner deposited 25% of the bid amount. The balance payment was to be made in five (six monthly) installments commencing from 30.11.1996 to 30.11.1998. The possession of the shop was delivered to the petitioner at the time of allotment. The petitioner raised construction thereon and also obtained electricity connection and stated its business therein. The petitioner could not make the payment of the installments as per the prescribed schedule as it suffered huge financial losses. As a result thereof, the Trust resumed the shop in question in the year 1997. Thereafter, the Trust issued letter/notice dated 13.3.2006 (Annexure P-4) directing the petitioner to vacate the shop and hand over the possession thereof within seven days from the date of receipt of the said letter. Till date, the petitioner is in continuous possession of the shop in question and is running its business. There were other shop owners who could not make the payments and the Trust had also initiated legal proceedings against them, their cases were not finally decided. The other shop owners made representations to the Government for release of their shops/booths and in pursuance thereof, the Government released certain shops/booths in their favour and some of the representations were pending. The Trust vide resolution dated 26.7.2011 (Annexure P-5) resolved to release the plots/shops/booths to the owners who were in possession of the same since long after recovery of appropriate amount from them. The petitioner approached the Trust with the amount but it put off the matter on one pretext or the other. Accordingly, the petitioner moved a representation dated 18.8.2013 (Annexure P-6) to respondent No.3 for deposit of installments of shop No.76, First Floor, Block-F, APK Road, Pathankot but to no avail. Thereafter, the petitioner sent a legal notice dated 18.2.2014

(Annexure P-8) to the respondents for considering its case in view of shop owner of shop No. 46, APK Road, Pathankot whose shop was released by the Trust by waiving off 75% amount qua interest, penalty etc. after recovery of 25% of the amount. However, no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a legal notice dated 18.2.2014 (Annexure P-8) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.1 to take a decision on the legal notice dated 18.2.2014 (Annexure P-8) in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 30, 2015
gbs

(REKHA MITTAL)
JUDGE