

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11310 of 2015

Date of Decision: 28.5.2015

M/s Janta Land Promoters Pvt. Ltd., SAS Nagar, Mohali
....Petitioner.

Versus

State of Punjab and others
...Respondents.

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

PRESENT: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Ranjit Singh, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the demand for EDC/licence fee raised against the petitioner vide demand notices, Annexures P-8, P-10, P-11 and P-14. Further, a writ of mandamus has been sought direction the respondents to decide the representations dated 22.4.2015 (Annexure P-15) and dated 8.5.2015 (Annexure P-16) and to refund the entire amount of EDC/licence fee etc. deposited by the petitioner amounting to ₹ 4092.46 lacs along with interest at the rate of 13% per annum.

2. The petitioner is engaged in the business of developing residential, commercial and industrial townships/parks and colonies and has set up various colonies/industrial/mixed use parks within the State of

Punjab as detailed in para 3 of the writ petition. The said colonies/parks have been set up after due permission from the State and its agencies like Greater Mohali Area Development Authority (GMADA) and environment clearance etc. State of Punjab vide notification dated 17.11.2006 (Annexure P-1) gave a special package for mega projects in the State. The State Government through its Empowered Committee constituted under the Industrial Policy in its meeting held on 27.2.2008 (Annexure P-3) took a decision that the concessions and incentives already granted to the Mega Industrial Park projects under the Mega Industrial Park Scheme (Annexure P-3) be made available to the Super Mega Mixed Use Integrated Industrial Park Projects. The respondents issued Industrial Policy, 2009 incorporating the said concession in para 7.4 of Chapter 7. In pursuance to Annexures P-1, P-2 and P-3, the petitioner submitted a proposal dated 27.12.2010 to set up a Super Mega Project at Sectors 66-A, 82 and 83, Mohali on 290 acres of land with project cost of ₹ 1219.20 crores under Category 'C'. The said proposal was considered by the Empowered Committee under the Industrial Policy, 2009 in its meeting held on 16.3.2011 and concessions of Super Mega Project were granted to the petitioner. In addition thereto, the committee approved the project area break up, FSI on the basis of gross area of the project, FAR and incentives subject to the fulfillment of conditions mentioned therein including minimum investment of ₹ 1000 crores vide approval dated 10.5.2011 (Annexure P-4). It was stipulated that 25% of the project area had to be owned by the promoter at the time of signing of the agreement and 50% at the time of making application for change of land use. The petitioner is owner of 263 acres of land situated in Sectors 66-A, 82 and 83, Mohali and is, therefore,

eligible for concession given to Super Mega Project as it falls in category 'C' of the categories contained in Annexure P-4. The State Government entered into an agreement dated 30.5.2011 (Annexure P-5) with the petitioner. The petitioner submitted its lay out plan to the respondents which reveals that the total saleable area as 215.20 acres plus 47.49 acres to be acquired by the State Government and FAR allowed as 2.0 and the same were duly approved on 19.12.2011. The petitioner submitted revised layout plan in the years 2012, 2014 and 2015 which were duly approved on 17.8.2012, 19.3.2014 and 15.4.2015 (Annexures P-6, P-6/A, P-6/B and P-6/C, respectively). The State of Punjab issued notification dated 23.12.2011 (Annexure P-7) exempting the petitioner from the provisions of Punjab Apartment and Property Regulation Act, 1995. The petitioner was required to pay license fee on residential and commercial components of the Super Mega Project in installments. A demand notice dated 15.12.2011 (Annexure P-8) was received by the petitioner for making payment on account of EDC and licence fee for an area measuring 255.35 acres. The quantum of EDC were prescribed and payable in accordance with notification dated 22.6.2010 (Annexure P-9) issued by Government of Punjab. Thereafter, the revised additional demand notice dated 20.6.2012 (Annexure P-10) for EDC and licence fee was issued to the petitioner. Another revised demand notice dated 6.1.2015 (Annexure P-11) was issued to the petitioner against which the petitioner submitted a representation dated 27.1.2015 (Annexure P-12). Thereafter, another revised additional demand notice dated 17.3.2015 (Annexure P-14 Colly) for EDC was issued to the petitioner against which the petitioner submitted a representation dated 22.4.2015 (Annexure P-15) followed by reminder dated 8.5.2015 (Annexure P-16).

However, no response has been received till date from the respondents.

Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved representations dated 27.1.2015 (Annexure P-12), 22.4.2015 (Annexure P-15) and dated 8.5.2015 (Annexure P-16) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, 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.2 to decide the representations dated 27.1.2015 (Annexure P-12), 22.4.2015 (Annexure P-15) and dated 8.5.2015 (Annexure P-16), 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 and copies of the aforesaid representations.

(AJAY KUMAR MITTAL)
JUDGE

May 28, 2015
gbs

(REKHA MITTAL)
JUDGE