

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.5075 of 2010(O&M)

Date of Decision:27.11.2015

Mulakh Raj Dhamija and others

....Petitioners

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. Sushil Jain, Advocate for the petitioners.

Mr. Rajesh Gaur, Addl. AG, Haryana for respondent No.1.

Mr. Kanwaljit Singh, Senior Advocate with
Mr. Dheeraj Chawla, Advocate, for respondent Nos.2.

Mr. N.C. Sahni, Advocate, for respondent No.5.

Mr. Ashok Kumar Sehrawat, Advocate,
for respondent Nos.4, 11, 15, 30, 37, 41, 43, 55, 66, 95,
103, 110, 113, 126, 131, 140, 152, 172, 186, 204 & 207.

Mr. Kulvir Narwal, Advocate, for respondents No.7, 8, 38, 50.

Mr. Kunal Mulwani, Advocate, for respondent No.9.

Mr. Rajeev Kawatra, Advocate for respondent No.14.

Mr. Deepak Girotra, Advocate, for respondent Nos.15 &43.

Mr. Dinesh Arora, Advocate, for respondent Nos.17, 19,
65, 68, 74, 81, 88, 100, 164, 179, 182 & 223.

Mr. Puneet Bali, Senior Advocate with
Ms. Monika Thakur, Advocate, for respondent Nos.26, 35, 40, 45,
47 to 49, 61, 63, 77, 83, 87, 90, 93, 94, 97, 99, 102, 105, 108, 117,
119, 125, 129, 133, 136, 137, 151, 153, 156, 183, 192, 198 & 206.

Mr. Deepak Agnihotri, Advocate, for respondent No.51.

Mr. Sandeep K. Sharma, Advocate, for respondent Nos.57, 150, 176
& 203.

Mr. S.P. Chahar, Advocate for respondents No.71, 144, 167.

HEMANT GUPTA, J.(Oral)

This order be read in continuation of earlier order passed by this Court on 27.03.2015 whereby the process of allotment of plots was found to be arbitrary without framing any objective, transparent and rationale criteria. However, the question as to whether all allotments are tainted or unjustified or only some of them are beneficiary of the largesse was required to be examined by the Committee chosen from the list of Officers given by learned State Counsel.

Unfortunately, the Committee has failed to discharge the function assigned to it that the Committee will be able to sift out the tainted and unjustified allotments than the one which is bona fide and justified allotment. The Committee in its report dated 1.9.2015 has recorded as under:

“5. The record of the allotment reveals that no criteria was evolved by the Allotment Committee to appraise/allot marks on various indices to the applicants. During the course of the interviews, no marks were assigned to any of the applicants. Therefore, the committee is of the opinion that an objective criteria ought to have been in existence before these plots were allotted. In a subsequent development the present State Government (vide HSIIDC Office Order No.HSIIDC: Estate : 2015 :1051-1056 dated 28th May, 2015) so as to bring in transparency in the procedure of allotment of industrial plots/ sheds in various Models Townships/ Industrial Estates of HSIIDC has revised the existing allotment procedure / policy. This revised policy/ procedure for allotment of industrial plots/ sheds of HSIIDC is reproduced below:

xxx xxx xxx

13. The current status of the 222 allotted plots is given below:

Sr. No.	Status	Number of plots
1.	Plots where the project has been implemented with the commencement of production	122
2.	Plots where construction has been completed	75
3.	Plots where 50% construction has been completed	6
4.	Plots where 25%	9

	construction has been completed	
5.	Plots lying vacant	10 (3 plots resumed on account of non payment/ non construction, in 3 plots allotment stands cancelled as the allottees did not execute agreement with HSIIDC, in 2 plots implementation period available till 11.02.2016, and in the remaining 2 cases, resumption proceedings have been initiated)

xxx xxx xxx

16. In view of the fact that since in 197 plots, industrial production has either commenced or construction of the unit completed, the Committee solicits the guidance of the Hon’ble High Court to proceed further in the matter. The Hon’ble High Court in its order dated 27.03.2015 had observed that:-

“The said Committee shall prepare an objective, transparent and fair criteria to assess the suitability of each of the applicants for the plots on the basis of the documents filed along with their respective applications”.

17. Subsequent to this, the present State Government in its endeavour to ensure transparency in the allotment of industrial plots in HSIIDC has revised its procedure/ policy (vide Office Order No.HSIIDC; Estate : 2015: 1051-1056 dated 28th May, 2015 of MD, HSIIDC) which is a transparent and objective policy to evaluate the eligibility/ suitability of the applicants. Thus, the Committee is of the considered view that it may not be desirable to frame another set of criteria by it to evaluate the applications and, therefore, clarification of the Hon’ble High Court is solicited regarding the same.”

The Committee has, thus, noticed that subsequently, the Haryana State Industrial & Infrastructural Development Corporation (for short ‘HSIIDC’) has framed a policy/procedure for allotment of industrial plots/sheds on 28.05.2015 but submitted report so as to seek clarification from this Court that it may not be desirable to frame another set of criteria and evaluate the applications.

We find that if the Committee was of the opinion that the criteria framed by HSIIDC was fair and transparent, there was no prohibition to the Committee to adopt and apply the said criteria for considering the allotments made and to sift out the tainted and unjustified allotments.

It may be stated that the Committee has found that the project has been implemented with the commencement of production of 122 plots out of 222 plots allotted, however, construction has been completed in 75 plots; 50% construction in 6 plots and 25% construction in 9 plots, whereas 10 plots are lying vacant.

Not only this Court has found that there was no criteria for allotment, but even the Committee has found, as reproduced above, that the allotments were made without framing any criteria. Therefore, we have no option, but to set aside all the allotments made with the following directions:

- (1) The allotment of plots where the construction has been partly or completely completed stand quashed with a direction to HSIIDC to assess the cost of construction as on 27.03.2015 and to pay such cost of construction and the allotment price paid along with 10% interest per annum on the allotment price from the date of deposit till the date of realization. The amount shall be refunded or paid to the allottees within a period of three months from today.
- (2) However, where the production has been commenced, HSIIDC shall take over the possession of plant and machinery of 122 plots by preparing a detailed inventory giving liberty to the allottees to remove the movable assets and/or the stock in trade within two months. The HSIIDC will thereafter assess the cost of construction; cost of plant

and machinery independent of the bills or the invoices obtained by the entrepreneurs and put the property for allotment by reserving the price so arrived at or by public e-auction with such reserve price for auction after giving wide publicity. The valuation of 122 plots shall be completed within six months from today and put to sale within next two months.

Writ petition stands disposed of accordingly.

(HEMANT GUPTA)
JUDGE

NOVEMBER 27, 2015
‘D. Gulati’/Vimal

(HARI PAL VERMA)
JUDGE