

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9964 of 2015

Date of Decision: 18.5.2015

Harbans Singh and others

....Petitioners.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. Mansur Ali, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. The petitioners have invoked the writ jurisdiction of this Court under Articles 226/227 of the Constitution of India for quashing the demand notice dated 5.1.2015 (Annexure P-25) demanding interest from the year 2000 issued to petitioner No.1. A direction has been sought to be issued to the respondents to calculate the rate of interest in view of order dated 1.4.2014 (Annexure P-24) passed by this Court in CWP No. 20771 of 2013. Further, prayer has been made for waiving off the interest in terms of the policies, Annexures P-14 to P-16 and P-23, respectively.

2. The petitioners are the riot victims and Sikh migrants holding Red Cards. They filed CWP No. 1531 of 2010 by relying upon the police dated 12.1.1987 (Annexure P-2) for the allotment of booths being riot victims. They have built up their shops in Phase VII, SAS

Nagar, Mohali and under the policy, the Sikh migrants were required to be allotted shop sites. The petitioners were left out and were not taken into consideration whereas the similarly situated persons were allotted sites. Vide letter dated 30.9.1993 (Annexure P-4), the price of the booth was fixed at ₹ 3,28,970/-. They represented the respondents through the Danga Peerat Welfare Committee wherein they were directed to accept the same size for ₹ 3,28,970/- through installments. The petitioners and others filed CWP No. 12427 of 1993 which was disposed of vide orders (Annexure P-5 Colly). The respondents vide agenda item No. 23.07 (Annexure P-6) fixed the price as ₹ 4 lacs. The Secretary, Housing and Director, Urban Development, Punjab vide order dated 22.12.2009 (Annexure P-7) had rejected the claim of the petitioners and asked them to pay auction price of the plot instead of allowing the allotment @ ₹ 4 lacs in case of red card holders and ₹ 6 lacs from others as was done in the case of similarly situated 66 other persons. The matter was referred by the State of Punjab to GMADA. The petitioners filed CWP No. 1531 of 2010 for the allotment of booth constructed for 108 unauthorized occupants near Gurudwara Amb Sahib and this Court vide order dated 19.4.2011 (Annexure P-8) disposed of the writ petition. In pursuance thereto, respondent No.3 issued allotment letters dated 29.3.2012 (Annexure P-9 Colly) in favour of the petitioners at the rate of ₹ 13,91,420/-. Further, the authorities had forced the petitioners to give affidavits (one such affidavit dated 30.4.2012 is Annexure P-10) with regard to the shops which were under possession. The policy dated 20.4.2001 (Annexure P-11) with regard to 50% allotment of the last auction price was taken out in the year 2001 with the intent that the same price would continue. Further, vide letters dated 7.12.2001 and

25.5.2009 (Annexure P-12 Colly), subsidy has been given on the booth allotments to GMADA/PUDA. The rates were fixed vide policies dated 4.1.2010 (Annexure P-14), dated 3.2.2010 (Annexure P-15) and dated 16.10.2001 (Annexure P-16). As per allotment letter dated 29.12.2008 (Annexure P-17) which was auctioned in open category and even if 50% of the auction price is taken, the same would be far less than which the GMADA was presently charging from the petitioners. As per policy dated 14.9.2001 (Annexure P-18), 1991-92 rates were to be charged in case of allotment of booths and repayment is allowed to be made in 25 years without any interest clause. The petitioners filed CWP No. 14747 of 2012 challenging the charging of ₹ 13,911,420/- and with a further direction to the respondents to charge ₹ 4 lacs as cost of booths. Clause 6 of the allotment letter was also challenged. This Court vide order dated 03.8.2012 (Annexure P-19) disposed of the writ petition with a direction to respondent No.1 to treat the writ petition as a representation on behalf of the petitioners and dispose of the same by passing a speaking order within a period of three months from the date of receipt of a certified copy of the order. In pursuance thereto, respondent No.1 vide order dated 23.7.2013 (Annexure P-20) rejected the claim of the petitioners. The authorities had raised the demand of interest (one such demand notice dated 22.8.2013 issued to petitioner No.1 is Annexure P-22). Petitioners No.2 and 4 had deposited the said amount but they are claiming the refund. Government of Punjab issued a policy dated 31.1.2014 (Annexure P-23). The petitioners filed CWP No. 20771 of 2013 which was disposed of by this Court vide order dated 1.4.2014 (Annexure P-24). The respondents has not waived off the interest and have again issued demand of interest vide demand notice

dated 5.1.2015 (Annexure P-25) issued to petitioner No.1. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners shall make a detailed and comprehensive representation against the demand notice dated 5.1.2015 (Annexure P-25) before the appropriate authority by incorporating the grievance as raised in the present writ petition. He, however, prays that a direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioners to file a detailed and comprehensive representation against the demand notice dated 5.1.2015 (Annexure P-25) raising all the pleas as raised in the present writ petition before respondent No.3. It is directed that in the event of a representation being filed by the petitioner, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to them within a period of three months from the date of receipt of the representation. The petitioner shall be entitled to lead any evidence to substantiate their claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

May 18, 2015
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(REKHA MITTAL)
JUDGE