IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11433 of 2015

DATE OF DECISION : 20.10.2016

Swaran Singh and others

.... PETITIONERS

Versus

State of Punjab and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Munish Behl, Advocate,
for the petitioners.

Mr. Rajinder Goyal, Addl. A.G., Punjab.

Ms. Reeta Kohli, Senior Advocate, with
Mr. Pardeep, Advocate,
for respondent Nos. 3 and 5.

Mr. Nikunj Dhawan, Advocate, for
Mr. Harsh Aggarwal, Advocate,
for respondent No.6.

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RAMENDRA JAIN , J.

1. The petitioners claim themselves to be belonging to Economically Weaker Sections of the society, earning their livelihood by running Pan-Bidi shops/Tea Stalls/Dhabas/Cycle-Scooter Repair shops, in Phase-IV A, Focal Point, Dhandari Kalan, Ludhiana. Their case is that in the year 1993, Punjab Small Industries & Export Corporation Limited (respondent No.3 herein) carried out a demolition exercise to remove encroachments from the public land. Thereafter, a survey was conducted to ascertain the persons who are running *Khokhas* (kiosks) on the public land

in Focal Point, Ludhiana. The petitioners claim to be one of those carrying out their *Khokhas*. In order to rehabilitate the *Khokha* owners, respondent No.3 – Corporation framed a scheme to allot 10 square yard land to each of the *Khokha* owners at the price of ₹ 350/- per square yard. The persons running *Khokhas* were to deposit earnest money of ₹ 700/- by 15.08.1993. Thought the petitioners deposited the amount demanded, but still allotments were not made. Thereafter, on 11.06.2001, respondent No.3 – Corporation fixed price of ₹ 1,33,000/- for the allotment of 10 square yards of land to the persons running *Khokhas.* The petitioners and other similarly situated persons were called upon to remit ₹ 13,300/- towards earnest money being 10% of the cost of the offered site.

2. Aggrieved by the said act of respondent No.3 – Corporation, the petitioners filed five separate writ petitions, which were disposed of by this court vide common order dated 01.10.2014 (Annexure P-1), with a direction to respondent No.3 – Corporation to re-calculate the price on which 10 square yard plots are proposed to be allotted to the persons running *Khokhas* in the Focal Point and the manner of allotment. It was ordered that the respondent No. 3 – Corporation shall have the right to rehabilitate the persons running the *Khokhas* at the same place or at suitable place in the vicinity of their present place of working. Thereafter, the Estate Officer of respondent No. 3 – Corporation (respondent No.5 herein) issued a letter/notice dated 24.04.2015 (Annexure P-2) to the petitioners, offering them allotment of 10 square yards of land on free hold basis to rehabilitate their unauthorised *Khokhas* in a planned cluster situated in Phase VII

Industrial Focal Point, Ludhiana, at a total price of ₹ 5,26,220/-, with a direction to the petitioners to deposit an amount of ₹ 52,622/- towards 10% price as earnest money within 30 days of the issue of offer letter.

3. Hence, by way of present writ petition, the petitioners have sought issuance of a writ in the nature of certiorari for quashing the letter/ notice dated 24.04.2015 (Annexure P-2) issued by respondent No.5, besides issuance of a writ of mandamus directing the respondents to allot the plots to the petitioners as per Collector rates, and thereafter to give sufficient time to them to deposit 10% earnest money and the remaining amount.

4. Learned counsel for the petitioners, while referring to extract of collector rates in respect of properties falling in Phase VII, Focal Point, Ludhiana, Annexure P-3, submits that commercial rates of the properties falling in Focal Point, Phase 7, Ludhiana, are ₹ 11,400/- per square yard. He further submits that in the end of the said extract, it has been specifically mentioned that 70% of the commercial rates shall be applicable to the properties which are industrial and are falling at Serial Nos. 1 to 58. Since properties in respect of the petitioners are under industrial category, therefore, the same are required to be offered at 70% rates of the commercial properties, i.e. 70% of ₹ 11,400/-, which comes out to be ₹ 7,980/- per square yard. Hence, the rate of the plots to be allotted to the petitioners, as claimed by respondent No.5 vide letter/notice dated 24.04.2015 (Annexure P-2), i.e. ₹ 52,622/- per square yard, is exorbitant which is far in excess of the Collector's rate which is ₹ 11,400/- per square yard, as indicated in Annexure P-3.

5. Learned counsel for respondents No.3 and 5 argued that constructed booths are to be allotted to the petitioners, who are unauthorized occupants. On 23.12.2014, respondent No.3 – Corporation had conducted an auction of commercial sites in Phase V, Focal Point, Ludhiana, and average bid realisation from the sale of booth site came out to ₹ 44,122/- per square yard. The cost of raising construction of booth measuring 10 square yards of land equipped with basic amenities works out to be ₹ 85,000/-. Thus, vide letter/notice dated 24.04.2015 (Annexure P-2), the petitioners have been offered allotment for a sum of ₹ 5,26,220/-, which has been calculated as ₹ 4,41,220/- (cost of land) + ₹ 85,000/- (cost of construction. Since constructed booths are to be allotted to the petitioners, therefore, they cannot be charged the prices at the collector rate, as the booths are to be utilized purely for commercial purpose.

6. After giving our thoughtful consideration to the rival contentions of learned counsel for the parties, we do not find any illegality in re-calculation of the price, on which constructed booths are to be allotted to the petitioners.

7. Admittedly, in an open auction of commercial booth sites in Phase V, Focal Point, Ludhiana, conducted on 23.12.2014, average bid came out to ₹ 44,122/- per square yard. Thus, cost of 10 square yards of land comes out to ₹ 4,41,220/-. The cost of raising construction of each booth is being charged at the rate of ₹ 85,000/-, which in no way can be said to be excessive, as besides construction, it also includes the providing of basic amenities and development of area as per PWD specifications, i.e.

construction of roads, parking area, toilets etc. Hence, we do not find any illegality in the calculation of price of the booth sites to be allotted to the petitioners, as stated in the letter/notice dated 24.04.2015 (Annexure P-2).

8. Petition is, accordingly, dismissed. The petitioners are required to deposit the amount of earnest money in terms of the letter/notice dated 24.04.2015 (Annexure P-2) within a period of 30 days from the date of receipt of a certified copy of the order. The other terms and conditions of the said letter/notice shall remain the same.

(RAMENDRA JAIN)
JUDGE

October 20, 2016 **(AJAY KUMAR MITTAL)**
ndj **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes