

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

CWP No. 21999 of 2015
DATE OF DECISION : 26.09.2016

Jai Parkash Bhargava

.... PETITIONER

Versus

State of Haryana and others

..... RESPONDENTS

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

Present: Mr. C.M. Chopra, Advocate, for the petitioner.

Mr. Saurav Girdhar, AAG, Haryana,
for respondents No.1 and 2.

Mr. Rajinder Mathur, Advocate,
for respondents No.3 and 4.

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RAMENDRA JAIN, J.

1. The petitioner, a retired employee of the Haryana State, has filed this petition under Articles 226/227 of the Constitution of India, seeking a writ of mandamus directing the Director General, Treasuries and Accounts Department, Haryana (respondent No.2 herein) to issue him 'Integrity Certificate'. Further direction has been sought to the Haryana Urban Development Authority (for short 'HUDA') (respondent No.3 herein) to issue an allotment letter of Plot No. 945, Sector 25, Panchkula, to the petitioner on the same terms and conditions as allotted to others who were successful in draw of lots along with the petitioner.

2. In pursuance of an advertisement/brochure (Annexure P-1) issued by respondent No.3-HUDA inviting applications from employees of Haryana Government/Boards/Corporations and State Co-operative Banks,

for allotment of residential plots in various Urban Estates of Haryana State, including Sector 25, Panchkula, the petitioner being an employee of the Finance Department applied for 8 marla plot in Sector 25, Panchkula, by depositing a sum of ₹ 14,337/- as earnest money vide receipt dated 29.07.1993, which was acknowledged by the office of HUDA vide acknowledgment slip (Annexure P-2). In the draw of lots held on 23.05.1994, the petitioner was declared successful and was allotted plot No. 945, Sector 25, Panchkula. Vide letter dated 29.07.1994 (Annexure P-3), the Estate Officer, HUDA (respondent No.4 herein), requested the petitioner to submit 'Integrity Certificate' within 90 days, as was required by condition No. 10 (iii) of the Brochure. Accordingly, vide letter dated 31.08.1994 (Annexure P-4), he requested respondent No.2 to issue 'Integrity Certificate', followed by another request dated 18.10.1994 (Annexure P-5) and legal notice dated 02.11.1994 (Annexure P-6), but to no avail. Hence, the petitioner could not receive the allotment letter.

3. It is pertinent to mention here that vide letter dated 27.01.1995 (Annexure P-29), the Finance Department informed respondent No.4 that in the Annual Confidential Report (ACR) of the petitioner for the year 1988-89, integrity was mentioned as 'doubtful' and his representation against the adverse remarks as well as integrity was rejected, against which the appeal filed by him was pending. It was also informed that a criminal case under the Prevention of Corruption Act, 1988, registered against the petitioner was also pending. Hence, respondent No.4 was requested to keep the matter regarding supply of 'Integrity Certificate' pending till decision of the aforesaid appeal and criminal case.

4. It is the case of the petitioner that vide order dated 31.07.1997

(Annexure P-15), passed by the Financial Commissioner & Secretary to Government Haryana, Finance Department, the appeal filed by him against the adverse remarks recorded in his ACR for the year 1988-89 was accepted, and all the adverse remarks including 'Integrity doubtful' were expunged and the report was upgraded as 'Good'. Further, vide judgment dated 18.11.2013 (Annexure P-17), the criminal appeal filed by the petitioner against his conviction and sentence by the trial court in the criminal case was allowed and he was acquitted. Thereafter, vide various letters/reminders dated 30.04.2014, 21.06.2014, 15.07.2014 and 28.07.2014 (Annexures P-19 to P-26), and by issuance of legal notice dated 20.08.2014 (Annexure P-27), the petitioner requested the department to issue him 'Integrity Certificate', but the same was not issued to him. Aggrieved by this inaction of the department, the petitioner approached this court.

5. Learned Assistant Advocate General, Haryana, appearing on behalf of respondents No.1 and 2, while referring to letter dated 15.03.2016 (Annexure R-1), submits that the respondent department has already issued 'Integrity Certificate' in favour of the petitioner to respondent No.4. In view of this development during the pendency of the instant writ petition, the relief sought by the petitioner with regard to issuance of 'Integrity Certificate' has rendered infructuous.

6. With regard to the second relief to direct respondent No.3 – HUDA to issue allotment letter of the plot in question to the petitioner, learned counsel for respondents No.3 and 4 submits that after more than three years of the issuance of letter dated 29.07.1994 (Annexure P-3) by respondent No.4 requesting the petitioner to submit 'Integrity Certificate' within 90 days, he (the petitioner) filed CWP No. 13595 of 1997 seeking the

same directions, as sought in the instant petition. The said writ petition was dismissed by this court vide order dated 02.03.1998, which attained finality, as no appeal was filed thereagainst. Thereafter, in the year 2014, the petitioner filed a petition before the District Consumer Disputes Redressal Forum, Panchkula, which was dismissed being time barred vide order dated 14.05.2015 (Annexure P-28). Hence, the present petition is an abuse of process of law and is barred by principle of *res judicata*. In this regard, reliance has been placed upon order dated 23.03.2015 (Annexure R-4/2) passed by this court in CWP No. 937 of 2014, titled as **Rama Nand Dhaka Vs. HUDA**. In the said writ petition, after exhausting his remedy before the District Consumer Forum, the petitioner had approached this court and the writ petition was dismissed by this court on the ground that the petitioner cannot be allowed to agitate the same issue before different courts.

7. After giving our thoughtful consideration to the rival contentions of learned counsel for the parties, we do not find any merit in the instant writ petition.

8. Admittedly, the petitioner had filed a petition before the District Consumer Forum, Panchkula, seeking direction to the HUDA to issue allotment letter regarding the plot in question in his favour. The said petition was dismissed on 14.05.2015 being time barred. Instead of challenging this order by way of appeal, the petitioner filed the instant petition. In view of the decision of this court in **Rama Nand Dhaka's case** (supra), this petition is not maintainable. The operative portion of the said order dated 14.05.2015 passed by the District Consumer Forum, Panchkula, reads as under :-

“The petitioner cannot be allowed to agitate the same issue before different Courts particularly in the circumstances that in the first complaint filed by the petitioner before the District Consumer Forum, he voluntarily gave up his claim for possession of the plot in question and opted for refund of the amount already paid by him. In the second leg of litigation, the State Commission, on a detailed consideration of case of the petitioner has refused to accept his prayer for possession of the plot in question and dismissed the complaint with compensatory costs.”

Even otherwise, it is an admitted position that as per condition No. 10 (iii) of the Brochure, submission of 'Integrity Certificate' within a period of 90 days from the date of issuance of letter to that effect was a mandatory requirement. The petitioner failed to submit the requisite certificate within stipulated time. The advertisement/brochure for allotment of plots was issued in this case in the year 1993 and the present petition was filed in the year 2015, which is hopelessly time barred and, thus, cannot be entertained.

9. For the reasons recorded above, the instant petition fails and the same is, hereby, dismissed.

**(RAMENDRA JAIN)
JUDGE**

September 26, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No