

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6285 of 2016
Date of decision:04.04.2016

Bajrang Lal

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr.S.P.Soi, Advocate for the petitioner

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not? YES
3. Whether the judgment should be reported in the digest?

ARUN PALLI J.

A writ in the nature of certiorari is prayed for to quash the order dated 02.07.2012 (Annexure P4), vide which the industrial plot allotted to the petitioner was resumed. As also the order dated 15.07.2015 (Annexure P11), vide which appeal preferred against the said order was dismissed by the Appellate Authority.

The facts which are required to be noticed are limited.

Petitioner was allotted industrial Plot No.22, measuring 133 sq.meters in Industrial Area, Tohana, to set up a flour mill, pursuant to a letter of allotment dated 24.11.2006 (Annexure P1). The site was allotted at ₹ 39,900/- and the petitioner paid the entire price, vide five half yearly installments with interest. Petitioner was put in actual, physical possession of the allotted site on 07.04.2008. However, vide order dated 02.07.2012 (Annexure P4),

the authorities resumed the site, for, the petitioner failed to implement the project, for which the allotment was made. The order of resumption was assailed by the petitioner vide an appeal, which too was dismissed by the Appellate Authority. This is how, as indicated above, the petitioner is before this Court.

Learned counsel for the petitioner submits that the petitioner was not afforded any notice or opportunity of hearing before the authorities ordered resumption of the allotted sites. He was not even served upon the said order. Further, he contends that the petitioner could not construct the site and commission the project, for his father was suffering from Renal Failure, who eventually died on 07.02.2008. And now, petitioner was/is ready to implement the project within the time that shall be prescribed by the authorities.

We have heard learned counsel for the petitioner and perused the paper book.

Ex facie, the petitioner was allotted an industrial site to set up a flour mill vide letter of allotment dated 24.11.2006. Possession of the allotted site was offered to the petitioner on 24.11.2006 itself. In terms of allotment/EMP 2005 guidelines, the petitioner was required to obtain possession of the site, submit building plans for approval, start construction at site and implement the approved project within four years (including one year general extension). Concededly, petitioner failed to construct the site within the stipulated time i.e. upto 23.11.2010. Thus, there was no occasion to enforce the project. Not just that, even after he

obtained the physical possession of the site on 07.04.2008, he failed to implement the project for a further period of almost four years. As a result, the authorities were choiceless but to order resumption on 02.07.2012.

The argument that is being advanced; that the order of resumption was not preceded by any notice or opportunity of hearing to the petitioner lacks conviction, for the record show that show causes notices dated 25.03.2010, 10.08.2011 and 05.01.2012 were issued to the petitioner, which were not even responded to. Likewise, he was afforded opportunity of personal hearing on 21.03.2012, 20.04.2012, 07.03.2012, 30.03.2012 and 04.05.2012, which he did not opt to avail. Even otherwise, petitioner was fully conscious of the terms upon which the site was allotted to the petitioner, as also that if he fails to construct the site and commission the project, within the specified time, the ramifications thereof. He knew that he has breached the terms of allotment and therefore resumption of the allotted site was inevitable. Further, certificate dated 03.12.2014 (Annexure P10) reveals that father of the petitioner died on 07.02.2008 and it was thereafter petitioner obtained the physical possession of the site on 07.04.2008. There is hardly any explanation on record as to why he still failed to implement the project for a period of four years. In the grounds set out in the appeal (Annexure P7) preferred against the order of resumption, he rather conceded that it was for lack of funds and the losses he suffered in the business, he was unable to implement the project.

Further, the records show that the petitioner, after he purports to have suffered losses in business, left his native village and shifted to Chandigarh to explore new avenues, which shows that he was neither inclined nor in a position to implement the project. We are mindful of the fact that the very purpose of allotment of an industrial site was to boost the State's economy, generate employment and promote industrialization. Time was the essence of the allotment. For the petitioner failed to abide by the terms of allotment, the very purpose of allotment stood defeated. In fact, the petitioner kept the site blocked for almost a decade and thus, severely impeded the interest of all the stake holders. Needless to observe that petitioner shall be refunded the requisite amount, which he purports to have re-deposited despite resumption, if not already refunded.

That being so, we are dissuaded to interfere with the discretion exercised by the authorities under Article 226 of the Constitution of India. The petition being devoid of merit is accordingly dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

04.04.2016

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