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

Date of decision : 31.01.2017

1.

CWP-9790-2008 (O&M)

M/s Personnel Management Association

... Petitioner

Versus

State of Haryana and others

... Respondents

2.

CWP-14998-2004

Pushpa Devi and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Arun Jain, Senior Advocate with
Mr. Sushil Jain, Advocate
for the petitioner in CWP-14998-2004.

Mr. Jagdish Manchanda, Advocate
for the petitioner in CWP-9790-2008.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Mr. Jasbir Mor, Advocate
for the respondent(s)-Municipal Corporation, Faridabad.

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

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of the two petitions bearing

CWP No.9790 of 2008 titled as **"M/s Personnel Management Association**

V/s State of Haryana and others” (hereinafter called "first petition") and CWP No.14998 of 2004 titled as “Pushpa Devi and others V/s State of Haryana and others”, (hereinafter called "second petition"), filed against the impugned orders dated 28.09.2006, 18.01.2008 & 2.06.2009 (Annexures P-17, P-25 & P-27, respectively) in first petition and the impugned orders dated 05.02.2003, 31.10.2003 & 06.09.2004 (Annexures P-8, P-19 & P-20, respectively) in second petition, whereby the claim of the petitioner submitted in the year 2006 in first petition and 2002 in second petition in pursuance to the Policy dated 28.03.1989 (Annexure P-2), wherein the Government decided the lands, buildings and shops which are on rent/lease and *Tehbazari* be sold to a person in possession, has been rejected/cancelled.

The submission of the claim in the aforementioned petitions is not in dispute.

The contentions of Mr. Arun Jain, learned Senior Counsel assisted by Mr. Sushil Jain, learned counsel appearing on behalf of the petitioner in CWP-14998-2004 and Mr. Jagdish Manchanda, learned counsel appearing on behalf of the petitioner in CWP-9790-2008 are that the petitioner in first petition had submitted an application in 2006, whereas in second petition in 2002 as a tenant/lessee of the property. The description of which has been given in the paragraph No.2 of both the writ petitions, but the authorities did not act in letter and spirit of the policy, rather adopted a pick and choose method. In this regard, the reference has been taken to the allotment letters (Annexures P-13, P-14 & P-15) made wayback in the year 1995 & 1998 @ ₹ 150/- & ₹ 10,000/- per square yards ie. the Department

had fixed a different yardstick/rate for commercial and non-commercial. The petitioner in second petition had already approached this Court for seeking vindication of his grievance, but the respondent(s) have been rejecting the case and asking for the market rate.

He submits that petitioner(s) would not be entitled to pay the market rate as their applications were required to be considered and decided/adjudicated for the relevant year i.e. 2002 & 2006, when the same were submitted. The petitioner cannot be asked to pay the present market price. Had the applications actually been considered with a pragmatic and reasonable approach, the petitioner(s) would not have here in this Court, therefore, for the fault of the respondent(s), the petitioner(s) cannot be made to suffer, thus, urges this Court for setting aside the impugned orders under challenge as there is a gross illegality and perversity.

Mr. Jasbir Mor, learned counsel appearing on behalf of respondent No.4/Municipal Corporation, Faridabad, submits that the petitioner(s) have time and again been called for the purpose of allotment of plot in occupation of their, though, lease-deed has not been extended then their status is of a trespasser, but the petitioner(s) are putting off the matter on the one pretext or the other and had only agreed for the payment of reasonable rate, but not the market rate. The reference has been made to the paragraph 7 & 13 of the written statement in the second petition which reads thus:-

“7. That the contents of this para wrong and hence denied. It is submitted that the Municipal Corporation, Faridabad has written a letter to the plaintiff to present in the office of the Joint Commissioner, Ballabgarh on 03.02.2003. The plaintiff

has written in his letter to purchase the disputed land at reasonable rate. Joint Commissioner, Ballabgarh asked the plaintiff to specify the meaning of reasonable rate whether it is current market rate or something else.

13. That the contents of this are correct to the extent that the Municipal Corporation, Faridabad has sold out the land to some shopkeepers at the rate of ₹ 10,000/- per sq. yds. at Unchagaon Gate, Ballabgarh. After the approval of the Government while Pushpa Devi was unauthorized possession the defendant was ready to sell the disputed land at current market rate. But she has written to purchase the disputed land at a reasonable rate and not market rate. He said application therefore, was rejected on 05.02.2003 by the Commissioner, Municipal Corporation, Faridabad.”

thus, urges this Court for dismissal of both the writ petitions as there is no gross illegality and perversity.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a merit and force in the submissions of Mr. Arun Jain, learned Senior Counsel in CWP-14998-2004 and Mr. Jagdish Manchanda, learned counsel in CWP-9790-2008, for, the Policy (Annexure P-2) is not in dispute, much less, allotment in favour of the similar situated persons as indicated in Annexures P-13, P-14 & P-15, though, at a different rate for commercial and non-commercial. The petitioner(s) cannot be asked to pay the market price as their claims were subsisting way back in the year 2006 in first petition and 2002 in second petition. At the best, the authorities i.e. Municipal Corporation, Faridabad can charge the collector/prevaling rate in the year 2002 & 2006, for, the authorities had already found that the petitioner(s) are the lessees and this

fact is indicated in the impugned orders, in essence, their claims have not been declined on the ground of not in possession or being not lessees, but only on the premise as indicated above i.e. regarding the market price.

Resultantly, the impugned orders, as indicated above, are set hereby aside. The Municipal Corporation, Faridabad/respondent No.4 is directed to consider the case of the petitioner(s) for allotment of the area in their possession in letter and spirit of the policy (Annexure P-2) by taking into consideration the rates i.e. Prevailing at the time when the applications were submitted i.e. in the year 2006 in first petition and 2002 in second petition.

Let this exercise be done within a period of two months from the date of receipt of the certified copy of this order.

With the aforesaid observations, both the writ petitions are allowed.

31.01.2017
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**