

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

**CWP No.23479 of 2014
Date of decision:09.01.2017**

Hari Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Malkeet Singh, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G.Punjab.

AMIT RAWAL J. (Oral)

The grievance of the petitioner in the present writ petition is for setting aside of the order dated 25.10.2011 (Annexure P-5) passed by respondent No.2-Collector-cum-Deputy Commissioner, Kapurthala, whereby, his representation dated 02.06.2010 for allotment of land declared as Nazool situated in village Jhal Thikriwal, vide memo dated 19.03.1982 (Annexure P-2) and the criteria vide letter dated 17.07.1984 and proposal dated 23.01.1990 (Anneuxre P-3) prepared by respondent No.3, has been rejected.

Mr. Malkeet Singh, learned counsel appearing on behalf of the

petitioner submits that the aforementioned representation was based on the premise that the Government, vide memo dated 19.03.1982, had decided to accommodate the members of 40 Harijan families who are likely to be ousted from the land allotted for the open jail. The proposal dated 23.01.1990 (Annexure P-3) was also prepared in which the name of petitioner was figuring at serial no.21. According to the aforesaid proposal, the petitioner was found eligible for land measuring 10 kanals, since he was found in possession of the aforesaid land since 1980 as per khasra girdawari. The petitioner approached this Court, vide CWP No.2117 of 1992 seeking allotment as per policy. The same was disposed of by this Court along with CWP No.1313 of 1990, vide order dated 06.05.2010 granting liberty to the petitioner to make a fresh representation. In this background of the matter, the representation dated 02.06.2010 was submitted before the Deputy Commissioner-cum-Collector (Civil), Kapurthala but the same remained undecided, which constrained the petitioner to again approach this Court for seeking vindication of his grievance, vide CWP No.7361 of 2011 and the same was disposed of vide order dated 28.04.2011 by directing respondent No.2 to take decision on the representation of the petitioner dated 02.06.2010 in accordance with law. He further submits that the impugned order suffers from illegality, perversity, much less is not backed by reasons, much less cogent reasons and in this regard, has drawn the attention of this Court to the proposal (Annexure P-3), which has not been taken into consideration. The order is most sketchy and mechanical.

Mr. Yatinder Sharma, learned Additional Advocate General, Punjab appearing on behalf of the respondents-State does not dispute the passing of the order but unable to support the order as the order *prima facie* and apparently wanting reasons.

I have heard learned counsel for the parties and appraised the paper book and annexures annexed thereto.

For the sake of brevity, order dated 25.10.2011 (Annexure P-5) reads thus:-

“The Hon'ble Punjab & Haryana High Court, Chandigarh, in civil writ petition No.7361 of 2011 titled “Hari Singh versus Punjab State” vide its order dated 28.04.2011 had given directions to the respondent that the respondent will dispose off the representation dated 2.6.2010 of the petitioner, within 60 days.

In pursuance to the orders of the Hon'ble Punjab & Haryana High Court, Chandigarh, the revenue record was looked into and the petitioner was personally heard on 25.10.2011. As per the letter of the Punjab Govt. No.24/12/80-L.R.-111/7586, dated 17.7.1984, only those persons are entitled for allotment, whose possession over the land is being established since Rabi 1980. However, in the representation dated 2.6.2010 of the petitioner, the possession over the land bearing khewat no.79, khatuni no.110 and 174 and khasra no.47//18/1/1(5-11), 18/2 (2-9), 23/1(4-9), 3/2/1(3-2), 55//3(8-0), /1(2-0) and 55//7/2/2

(4-8) is not being established since Rabi 1980. Therefore, the representation of the petitioner dated 2.6.2010 is being dismissed.”

The order has been passed by the Collector-cum-Deputy Commissioner, Kapurthala, while exercising quasi-judicial powers, is assigned obligation under the local law to decide the cases in a most pragmatic and reasonable manner but not in the manner indicated above. The proposal Annexure P-3 has not been taken into consideration, much less not adverted to. The approach of the Officer of such rank, in my view, should not have been so lackadaisical in deciding the representation. In fact, the order apparently appears to be an attempt to overcome the wrath of contempt petition without knowing the question of intricacy involved or the question raised/or grievance of the person.

Resultantly, the impugned order is set aside. Respondent No.2 is directed to decide the representation dated 02.06.2010 afresh by passing a speaking order by taking into consideration proposal aforesaid. The petitioner is directed to supply a copy of the writ petition along with proposal and all the necessary documents required for the purpose of allotment of land, in view of the memo, Annexure P-2.

This Court is sanguine of the fact that this exercise shall be done within a period of three months keeping in view the aforementioned observations and there shall be no further extension.

Writ petition stands allowed.

Till then there shall be status quo qua possession as it exists today.

(AMIT RAWAL)
JUDGE

January 09, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No