

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

Civil Writ Petition No.27303 of 2015

Date of decision: November 16, 2017

Raj Kumar Sharma and another ...Petitioners

Versus

State of Haryana and others ...Respondents

**CORAM:HON'BLE MR. JUSTICE S.J.VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Vishavdeep Singh Rana, Advocate
for the petitioners.

Mr.Deepak Balyan, Addl. AG, Haryana with
Mr.Ayuwan Singh, AAG, Haryana for respondent No.1.

Mr.Sandeep Moudgil, Advocate for
respondents No.2 and 3.

S.J.VAZIFDAR, Chief Justice :

The petitioners have challenged an order dated 09.06.2015 (Annexure P-7) passed by the Secretary, Haryana State Agricultural Marketing Board, dismissing their appeal under Rule 11 of the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000. The appellants challenged a notice demanding arrears. The respondents by their various letters, allotted shops – booths in the Anaj Mandi, in favour of each of the petitioners. One such allotment letter dated 25.01.2001 is at Annexure P-2. The learned counsel appearing for the petitioners states that the terms and conditions of all the allotment letters contained are the same. Clauses (4) and (5) of the allotment letter stipulate the consideration. The clauses give the option to the allottees to pay the

amount in a lump-sum or in instalments. The instalments, however, carried interest @ 15% per annum. The failure to pay the instalments imposed penal interest of 4% per annum, which was in addition to the regular interest of 15%.

The liability to pay interest under the allotment letter is clear and is not even denied. The petitioners' contention is that by various orders in appeals, similar to the one filed by them, the Chief Administrator granted to other such allottees relaxation in interest. The relaxation was to the effect that the interest would be payable only after making provisions for certain facilities. These orders were, purportedly, passed in view of a policy dated 05.03.2002.

It is not necessary for us to consider the effect of the policy dated 05.03.2002 as a Division Bench of this Court by an order and judgment dated 14.09.2012 in the case of “Raksha Rani vs. Haryana State Agricultural Marketing Board and others” LPA No.502 of 2011 in CWP No.1122 of 2003, inter-alia, held as follows:-

“29. In view of the above, the following directions are substituted as against the directions issued by the learned Single Judge:-

(1) All cases of allotment prior to amendment of statutory rules on 5.3.2002 shall be governed by the contract. Under the contract, there is no condition or covenant that the liability to pay interest, penalty shall be dependent upon providing facilities/ amenities. Such of the allottees who were allotted plots prior to 5.3.2002 are liable to pay interest and penalty in accordance with the terms and conditions of the allotment letter.”

The petitioners' case is clearly covered by this judgment. As

their allotments are prior to 05.03.2002, they are not entitled to the benefit of the policy.

The fact that certain other similarly placed allottees have been granted the benefit prior to the aforesaid judgment does not entitle the petitioners to reliefs, which are contrary to the judgment of this Court.

The petition is dismissed. The petitioners are at liberty to make an application for relaxation in the rate of interest, specially with regard to the penal interest, which shall be decided in accordance with law. We express no opinion regarding the same.

(S.J. VAZIFDAR)
CHIEF JUSTICE

November 16, 2017

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(HARINDER SINGH SIDHU)

JUDGE Whether Speaking / Reasoned Yes Whether