

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

**CWP No. 13516 of 2016
Date of decision: 12.03.2018**

**Krishna Devi w/o Late Shri. Bishan Sarup resident of Village and Post
Office Meham, Tehsil Meham, District Rohtak, (Booth No.17)**

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Sushil Jain, Advocate for the petitioner(s).
Mr. D.R. Singla, DAG, Haryana.
Mr. Deepak Balyan, Advocate for respondent-HUDA.

Ajay Kumar Mittal,J.

1. This order shall dispose of bunch of five petitions CWP Nos. 13516, 13694, 13705, 13697 and 13789 of 2016 as according to the learned counsel for the parties, the issue involved in all these petitions is identical. However, the facts are being extracted from CWP No. 13516 of 2017.

2. The petitioner in CWP No. 13516 of 2016 filed under Article 226 of the Constitution of India prays for quashing the impugned order dated 07.01.2016, Annexure P.10 passed by the respondent No.1 whereby the revision petition filed by her against the order dated 03.06.2015, Annexure P.9 passed by the Chief Administrator rejecting her claim for not charging interest, penalty as well as for grant of similar relief as granted to identically situated allottees has been declined. Further direction has been sought to the respondents to grant similar relief as granted to the similarly situated allottees

of the very same mandi vide orders dated 11.09.2006, 05.03.2009 and 17.04.2009 passed by the Chief Administrator and orders dated 31.05.2012 and 10.1.2012 passed by the respondent No.1. The petitioner also prays that the respondent authorities be restrained from taking any coercive method against her.

3. A few facts relevant for the decision of the controversy involved as narrated in CWP No. 13516 of 2016 may be noticed. In the year 1993, respondent No.3-Market Committee, Meham had issued/circulated pamphlet in the locality inviting applications from the general public to purchase or to bid in auction for the New Grain Market at Meham. It was specifically mentioned therein that the said mandi will be equipped with facilities like constructed platform, roads, water supply, electricity, parking area etc. The petitioner being eligible bid in the auction and was allotted a Booth site No.15 measuring 12x27½ feet in New Grain Market, Meham vide allotment letter dated 03.09.1993, Annexure P.1. The petitioner alongwith other similarly situated persons went to respondent No.3 and made a prayer to hand over the possession of the Booth site in question and to give the site plan/drawings so that the petitioner can construct the shop, but the Market Committee failed to deliver or hand over the possession as well as the drawings. When the possession of the plot was not given, the petitioner on 07.09.2002 met the officials of the Market Committee Meham. She made a request that the Market Committee had not extended the basic amenities i.e. water supply, sewerage etc in the market and, therefore, it cannot charge interest on the installments. The petitioner also made a representation on 07.09.2002 to respondent No.3 stating that she had been allotted the plot and for construction, water was essential. She further stated that water pipeline had not been provided in the new grain market. Despite that, possession of the plot

was not handed over to the petitioner. The petitioner again submitted representation dated 03.12.2002 praying for delivery of legal possession of the plots after providing basic amenities and for waiver of interest on the installments fixed in respect of the plots. According to the petitioner, respondent No.3 without delivery of possession of the plots and providing basic amenities, had issued notices demanding amount on account of extension fee as well as charging interest on the installments. Against the demand of interest as well as the extension fee, 12 similarly situated allottees of the very same mandi on 11.09.2006 filed an appeal before respondent No.2 i.e. Chief Administrator. Vide order dated 11.09.2006, Annexure P.4 the said appeal was allowed by the Chief Administrator. Interest was waived off upto 15.02.2002 i.e. the date of offering of possession. After passing of the order dated 11.09.2006, the respondent authorities did not charge any interest on the installments from the above said similarly situated allottees. Respondent no.3 thereafter again issued notices to the other similarly situated allottees of the same very Mandi. Some of them filed an appeal before respondent No.2. Vide order dated 06.03.2009, Annexure P.5, the Chief Administrator allowed the appeal and directed respondent No.3 not to charge interest w.e.f. 05.03.2002 till the date of providing the facilities of water supply and sewerage at Grain Market, Meham. Against the demand of charging interest and extension fee in respect of 39 other similarly situated allottees of the very same mandi, appeals were filed before the Chief Administrator. Vide order dated 17.04.2009, Annexure P.6, the appeals were allowed. Relief was granted not to charge interest and extension fee w.e.f. 05.03.2002 till the date of providing of water supply and sewerage i.e. January 2005. While passing the order dated 17.04.2009, the Chief Administrator had specifically recorded that the order be applied to all similarly situated allottees of the New Grain and Vegetable

Market, Meham who had not even filed appeals. Despite the said direction, the same relief was not granted to the similarly situated allottees. Aggrieved thereby the, above mentioned allottees filed revision petition before respondent No.1 for granting the same relief as extended vide order dated 11.09.2006 by the Chief Administrator. Vide order dated 10.01.2012, Annexure P.7, the revision petition was allowed. Again in similar matter, respondent No.1 had allowed the revision petition on 31.05.2012, Annexure P.8 of similarly situated allottees and extended the same relief. When respondent No.3 made a demand of interest and penal interest from the petitioner, she filed an appeal before respondent No.2. Vide order dated 03.06.2015, Annexure P.9, the appeal was dismissed by the respondent No.2, holding that if earlier orders were not passed on merits and not in accordance with law, the same would not be binding on the successor authority. Dissatisfied with the order, the petitioner filed a revision petition which was also dismissed vide order dated 07.1.2016, Annexure P.10. Hence the instant petitions by the petitioners.

4. A written statement has been filed by Secretary Market Committee, Meham on behalf of respondent Nos. 2 & 3 wherein it has been inter alia stated that the claim of the petitioner is not maintainable on merit, in view of the law laid down by the Supreme Court of India to the effect that the allottees cannot postpone the payment of installments and interest merely on the ground that some of the amenities were not ready. It has been further stated that the possession of the booths had already been given to the allottees in the year 1993 with all basic facilities including constructed road, platform and electricity etc. On these premises, prayer for the dismissal of the petition has been made.

5. Learned counsel for the petitioner inter alia submitted that though the petitioner had been allotted the site on 03.09.1993, the basic facilities and possession could not be provided prior to January 2005. It was claimed that in such circumstances, no penalty and interest could be charged in view of various orders attached as Annexure P.4 to P.8 alongwith writ petition and, thus, the action of respondent No.3 was in violation of the aforesaid orders and discriminatory.

6. Learned counsel for the respondents controverted the submissions made on behalf of petitioners and supported the action taken by the respondent authorities.

7. We have heard the learned counsel for the parties.

8. It is not disputed that respondent No.3-Market Committee, Meham in the year 1993 invited applications from the general public to purchase or to bid in the auction for the New Grain Market at Meham. It was specifically mentioned therein that the basic facilities like constructed platform, roads, water supply, electricity etc will be provided. The petitioner being eligible bid in the auction and was allotted a Booth site No.15 in the New Grain Market, Meham vide allotment letter dated 03.09.1993. Thereafter, the petitioner on 09.04.2001 alongwith similarly situated persons requested the respondent authorities for handing over the possession. She made various representations in this regard but neither possession of the plot was given nor basic amenities were provided. In the meantime, some similarly situated persons challenged the demand of charging interest and extension fee by filing an appeal before the Chief Administrator which was allowed vide order dated 11.09.2006. Interest was waived off up to 15.02.2002 i.e. the date of offering of possession. On 17.04.2009, 39 similarly situated allottees also filed appeals before the Chief Administrator which were allowed vide order dated

17.04.2009, Annexure P.6 to the extent whereby respondent Committee was directed not to charge interest, penalty and time extension fee in respect of the plots w.e.f the date of issuance of Government notification dated 5.2.2002 till the date of providing the facilities of water supply and sewerage in the New Grain and Vegetable Market, Meham. It was specifically recorded in the said order that the same relief be granted to all the similarly situated allottees of the New Grain Market, Meham who had not even filed appeals. In spite of this specific direction, the appeal and the revision filed by the petitioner were dismissed by the respondent authorities. Learned counsel for the respondents has not been able to point out any legitimate and satisfactory reason to discriminate the petitioners and for not granting the same relief to them. Similar issue has already been decided by this Court vide order dated 22.11.2016 in CWP No. 4108 of 2016 (***Ram Krishan and others Vs. State of Haryana and others***) wherein after examining the matter it was recorded therein as under:-

“The respondents, who are government functionaries, cannot be allowed to treat two sets of similarly situated persons in different ways. Once vide order dated 30.06.2011 (Annexure P-9), the revisional authority ordered to charge simple interest @ 15% per annum from some of the allottees of the same Mandi, and waived off penal interest on the instalments, besides waiving off the extension fee till 31.05.2008, the day when all the basic facilities were completed in the Mandi yard, action of the respondents to discriminate the petitioners and decline the same relief to them, who are similarly situated, cannot be appreciated at all.”

9. In view of the above, the writ petition is allowed. The impugned orders dated 03.06.2015 and 07.01.2016, Annexures P.9 and P.10 respectively are quashed. Accordingly, the respondents are directed not to charge any

interest and penalty on installments w.e.f. 05.03.2002 i.e. the date of possession to January 2005 when the basic amenities were provided by them.

(Ajay Kumar Mittal)
Judge

March 12, 2018
‘gs’
Whether speaking/reasoned
Whether reportable

(Anupinder Singh Grewal)
Judge
Yes
Yes