

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

Civil Writ Petition No. 114 of 2017 (O&M)

Date of Decision: 23.10.2018

Harbinder Singh Baidwan

.....Petitioner

versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Petitioner Mr. Harbinder Singh Baidwan in person.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This writ petition under Article 226 of the Constitution of India has been filed in the nature of Public Interest Litigation seeking the following main relief:-

- i) Issue a writ in the nature of certiorari for quashing the Notification of Punjab Government issued by Revenue Rehabilitation and Disaster Management Department (Policy and Legal Branch) dated 19.10.2016 (Annexure P-3) being unconstitutional, arbitrary, against the principles of natural justice, barred by **Doctrine of Promissory Estoppel** as held by Hon'ble Apex Court in case titled "**Moti Lal Sugar Mills v. State of Uttar Pradesh**" **1979(2) SCR 641** and further observed in **1991 AIR (SC) 14**.

2. In exercise of the powers conferred by Section 18 of the Punjab Package Deal Properties (Disposal) Act, 1976 (hereinafter referred to as the Act of 1976), the State Government framed Rules known as Punjab Package

Deal Properties (Disposal) Rules, 1976 (hereinafter referred to as the Rules of 1976). Rule 4 of the said Rules, as it originally stood, contained a provision for allotment of urban as well as rural land in favour of widows/other dependents of personnel's of armed forces, BSF etc., who are permanent residents of the State of Punjab and were killed in Chinese aggression of 1962, Pakistan aggression of 1965 and Indo-Pakistan conflict of 1971 and such armed personnel's who have permanently become disabled.

3. A press note issued by Punjab Government calling applications from war widows in 1971 India-Pak war for allotment up to 10 acres of agricultural land under the beneficial scheme. The last date of making the applications in response to the public notice was prescribed as 27.01.1976. The applications made within the cutoff date were processed and most of the eligible applicants were either allotted rural agricultural land or were granted cash equivalent in lieu of such land. Subsequently, the State Government vide notification dated 24.12.2010 No.GSR 43/P.A.21/1976/S.18/Amd. (11)/2010, amended Rule 4 of the Rules of 1976 and substituted it by the following Rule:-

“4. Cash grant in lieu of land:- Permanently disabled soldiers, widows or parents of children of the soldiers, killed in the Chinese Aggression of 1962 and Pakistan aggression of 1965 and widows of personnel of the Armed forces, Border Security Force and Punjab Armed Police killed in the Indo Pakistan conflict of 1971 shall be entitled to cash grant in lieu of land to which such persons were entitled before the commencement of the Punjab Package Deal Properties (Disposal) First Amendment Rules, 2010. The grant shall be given at the rate of Rs. One lac per acre of entitlement or at such rate, as may be fixed by State Government from time to time”.

4. Finding that some war widows were unable to apply within the cutoff date i.e. 27.01.1976 and about 100 such more applications made after the cutoff date had been received and were pending, State Government under the amended Rule 4 vide notification dated 19.10.2016 floated a new scheme as a goodwill gesture and as a token of honour and gratitude providing that every war widow of soldier belonging to the State of Punjab in respect of 1965 and 1971 Indo-Pak wars and 1962 Indo-China war will be eligible for payment of a cash grant up to Rs.50 lacs which shall be paid in three installments, the first installment being Rs.20 lacs and thereafter two six monthly installments of Rs.15 lacs each, provided that they had not obtained any benefit of land or cash compensation under the previous policy and have applied on or before 04.01.2010. Certain other conditions were also laid down in the policy such as the war widows who were remarried shall not be eligible for this grant unless she had married to a male member within the broader family of deceased soldier. The scheme specifically provided that no person shall be entitled for allotment of any land under the scheme. The scheme also contained a stipulation that in time applicants, who have not been allotted their full quota of 10 acres of land, shall also be given a one time option to receive cash in lieu of land @ Rs.5 lacs per acre.

5. The petitioner, a member of the Bar Association of this Court, claiming to be a public spirited person, has sought the above quoted relief mainly on the ground that the impugned notification is contemptuous to the orders passed by the Hon'ble High Court in Civil Writ Petition No. 1567 of 2014 *Jasbir Kaur v. State of Punjab and others* decided on 19.05.2015 and the State Government is bound by the principle of *doctrine of promissory estoppel* and thus cannot go back from the earlier scheme of allotting 10 acres of land and awarding of Rs.5 lacs per acre in lieu of land is nothing

but a mockery and under the *doctrine of promissory estoppel* it is bound to allot land to the war widows as promised under the earlier scheme.

6. We have gone through the judgment dated 19.05.2015 rendered by a Division Bench of this Court in Civil Writ Petition No. 1567 of 2014 *Jasbir Kaur v. State of Punjab* case (supra).

7. The issue for consideration in the said case was whether an army officer notified by the Ministry of External Affairs, Government of India, in the list of missing defence personnel would be presumed to be killed in action and thus his widow would be entitled to be extended the benefit of the scheme. The vires of the earlier notification dated 24.12.2010 were also challenged in the said writ petition. The Division Bench of this Court holding that the petitioner therein was entitled to the benefit of the 1976 Rules formulated by the State Government went on to uphold the notification dated 24.12.2010 in the following words:-

“[7]. There can be no quarrel that 1976 Rules speak of a public policy devised for the welfare of several categories of persons including widows, parents and children of the army personnel killed in action. The policy decision was taken by State Government for the welfare of families affected by certain circumstances. The State Government, therefore, is well within its right to modify such policy decision and adopt different means to compensate the affected families. It is quite possible that after the Rules were formulated in 1976, the State Government is not left with sufficient land-parcels for giving effect to its original policy and has thus changed the mode of compensation. In this view of the matter, no fault can be found with the notification dated 24th December, 2010.”

8. Certain directions were also issued to the State to take notice of the facts and figures especially the Collector's rates in different Districts and then to determine the amount of grant to be released to the petitioner in lieu of the land. Undisputedly, the said directions were not general in nature and were confined to the petitioner of the said writ petition and therefore, it

cannot be said that the notification dated 19.12.2016 which is impugned herein is in any way contemptuous to the directions of this Court. Still the State Government by the impugned notification has decided a cash grant of Rs.50 lacs. In so far as the principle of *doctrine of promissory estoppels* is concerned, vide earlier notification issued whereunder the land was to be allotted to the war widows, the notification prescribed the cutoff date to be 27.01.1976. Thus, even if the principle of *doctrine of promissory estoppel* stands attracted, that would be applicable only in case of such applicants who had made applications within the cutoff date and for those who had made applications after the cutoff date of the earlier scheme would not be applicable and thus the principle of *doctrine of promissory estoppel* do not stand attracted in such cases. In so far as the applications made subsequent to the cutoff date is concerned, a complete new scheme vide impugned notification has been promulgated to which the *doctrine of promissory estoppel* do not stand attracted.

9. Needless to observe that the vires of an identical scheme have already been upheld by a Division Bench of this Court in the case of *Jasbir Kaur v. State of Punjab* (supra). An earlier identical notification having already been upheld by this Court with which we are in respectful agreement, the challenge to the validity of identical notification issued subsequently is liable to fail on the same ground on which the challenge to the earlier notification was rejected.

10. Admittedly, the notification is a policy decision taken by the State Government to extend the benefits for the welfare of the families of the defence personnel from the State of Punjab on account of wars. The policy decision appears to have been taken by the State Government to compensate such affected persons by giving cash grant instead of land mainly on account

of non-availability of surplus rural agricultural evacuee land free from encumbrances and litigation available for allotment.

11. Normally, the Courts are reluctant in interfering in the policy decisions unless there exists strong legal grounds of discrimination or arbitrariness. Having heard learned counsel for the petitioner and having gone through the record of the case we have not been able to find out nor it could be pointed out during the course of the arguments that there exists any arbitrariness or discrimination in the policy of the State Government.

12. In view of the above facts and discussion, the relief prayed for in the writ petition is not liable to be granted. The petition accordingly fails and stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

23.10.2018
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No