

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-12600-2017

Date of Decision: 15.2.2018

Navneesh Kumar

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Sandeep Moudgil, Additional Advocate General, Haryana.

Mr. Saurabh Mago, Advocate for the respondent-HUDA.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order dated 3.1.2017 (Annexure P-17) passed by respondent No.4 whereby the claim of the petitioner has been rejected. Further, a writ of mandamus has been sought directing the respondents to allot a residential plot only in the name of the petitioner.

2. Government of Haryana framed a policy dated 10.9.1987 (Annexure P-1) for the allotment of residential plots/commercial sites to the oustees whose land was compulsorily acquired by the Haryana Urban Development Authority (HUDA). The said policy was amended from time to time vide policies dated 9.5.1990, 18.3.1992, 12.3.1993, 28.8.1998 and 23.3.2006 (Annexures P-2 to P-6, respectively). The petitioner was owner

of the land measuring 8 kanal situated within the revenue estate of village Kheri Nangal, Tehsil and District Panipat as per the jamabandi for the year 2001-02 (Annexure P-7). Government of Haryana acquired the said land vide notification dated 12.9.2001 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by the notification dated 1.3.2002 under Section 6 of the Act for the development of Sector 29, Part II, Panipat. In the year 2006, the HUDA invited applications for the allotment of plot to the landowners whose land was acquired. In response thereto, the petitioner applied for the allotment of a plot under the oustees category by depositing 10% amount of the total cost of the plot. Being successful in the draw of lots, the petitioner was allotted plot No.867-P, Sector 24, Panipat vide allotment letter dated 15.5.2007 (Annexure P-8). A Full Bench of this Court vide order dated 1.10.2010 (Annexure P-9) passed in CWP-2575-2009 directed the respondents to make allotment of plot to each and every co-sharer depending upon the share of the oustee. Some of the landowners challenged the policy dated 12.3.1993 (Annexure P-4) by various writ petitions including CWP-10941-2010 and this Court vide order dated 26.4.2012 (Annexure P-10) disposed of the said writ petition by directing the HUDA to make allotment of plot to each and every landowners depending upon their respective entitlement. The petitioner requested respondent No.4 to delete the names of the co-sharers in the allotment letter who refused to delete the names of the co-sharers. Feeling aggrieved, the petitioner filed an appeal before respondent No.3 which was also dismissed. Thereafter, the petitioner filed a revision petition before respondent No.1 who vide order dated 29.5.2012 (Annexure P-11) disposed of the said revision petition with liberty to the petitioner to file an appeal/ petition

before respondent No.2. In pursuance thereto, the petitioner filed an appeal before respondent No.2 who vide order dated 2.7.2012 (Annexure P-12) filed the claim of the petitioner. Further, the order dated 26.4.2012 (Annexure P-10) passed by this Court was upheld by the Apex Court vide order dated 24.11.2015 in SLP-13375-2013. Thereafter, the petitioner moved a representation dated 30.11.2015 (Annexure P-13) before respondent No.2 who vide letter dated 4.1.2016 (Annexure P-14) referred the matter to respondent No.3 with a direction to decide the claim of the petitioner. Similar matter came up before this Court in various writ petitions including CWP-6684-2014 and this Court vide order dated 4.4.2016 (Annexure P-15) quashed the orders and directed the respondents to re-consider the claim of each of the petitioners. The HUDA framed a policy dated 11.8.2016 (Annexure P-16). When the respondents failed to take any action, the petitioner filed COCP-2668-2016 and respondent No.4 filed affidavit to the said COCP pleading that the petitioner was not entitled to the allotment of separate plot. In compliance with the order, Annexure P-10, respondent No.4 vide order dated 3.1.2017 (Annexure P-17) rejected the claim of the petitioner. COCP-2668-2016 was disposed of by this Court vide order dated 9.3.2017 with liberty to the petitioner to challenge the order, Annexure P-17. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has made a representation dated 30.11.2015 (Annexure P-13) to respondent No.2 which was rejected by respondent No.4 vide order dated 3.1.2017 (Annexure P-17). Reliance was placed upon the Full Bench judgment of this Court in **CWP-22252-2016**

(Rajiv Manchanda and others v. Haryana Urban Development

Authority, Panchkula and others) decided on 22.11.2017. He, however, prayed that liberty be granted to the petitioner to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition and direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioner to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioner within a period of one month from the date of receipt of the certified copy of the order, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of six months from the date of receipt of the representation keeping in view the principles of law enunciated by the Full Bench of this Court in **Rajiv Manchanda's case (supra)**. The petitioner shall be entitled to lead any evidence to substantiate his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

February 15, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes