

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-16566-2017

Date of Decision: 26.4.2018

Lakhvinder Singh

....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. Amit Jain, Advocate for the petitioner.

Mr. D.R. Singla, Deputy Advocate General, Haryana.

Mr. Deepak Balyan, 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 policy dated 11.8.2016 (Annexure P-5) vide which it was decided to refund the cheque amount deposited by the petitioner under the oustees quota for allotment of plot and subsequent thereto, the same was refunded. Further, a writ of mandamus has been sought directing the respondents to allot a plot to the petitioner in pursuance to acquisition of land.

2. The petitioner was owner in possession of the land as co-sharer to the extent of his share situated within the revenue estate of village

dated 8.3.1989 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by the notification dated 7.3.1990 under Section 6 of the Act acquired the said land for the developing of Sectors 9, 9-A and 10, Urban Estate, Gurgaon. The award was passed on 15.6.1996. Since the respondents had failed to allot a plot to the petitioner under the oustees quota, the petitioner filed CWP-8667-2011 and this Court vide order dated 25.4.2012 disposed of the said writ petition along with LPA-2096-2011. Against the order dated 25.4.2012, the respondents filed SLP which was also dismissed by the Supreme Court vide order dated 6.3.2014. Thereafter, the petitioner moved an application for the allotment of a plot under the oustees quota. Respondent No.3 vide order dated 28.2.2013 directed that the petitioner can apply for allotment of plot under oustees category at the time of floatation of next residential sector. The petitioner challenged the said order by filing CWP-8322-2014 and this Court vide order dated 5.5.2014 disposed of the said writ petition with a direction to the respondents to issue an advertisement at the earliest and to consider the claim of all the oustees subject to their eligibility including the petitioner and make allotments preferably within a period of six months from the date of receipt of a certified copy of the order. When the respondents failed to comply with the aforesaid order, the petitioner filed COCP-844-2015 which was disposed of by this Court vide order dated 10.3.2017 as the order passed by this Court was complied with and the advertisement was issued. Respondent No.3 vide public notice, Annexure P-1, informed all the allottees/applicant that who want to get any type of refund from HUDA, they were requested to submit the necessary detail along with the application form. In response thereto, the petitioner moved an application

dated 17.4.2017 (Annexure P-2) supplied the details to respondent No.3 for refund of the earnest money. The respondents framed a policy dated 11.8.2016 and in pursuance thereto, the petitioner submitted an application dated 6.4.2017 (Annexure P-3) to respondent No.3 for the allotment of a plot under the oustees quota along with earnest money vide challan dated 4.4.2017 (Annexure P-4). As per the policy dated 11.8.2016 (Annexure P-5), the petitioner was advised to apply for allotment of plot in fresh advertisement which would be issued after determination of reservation and the earnest money was to be refunded along with interest. Respondent No.3 vide letter dated 29.4.2016 (Annexure P-6) asked the petitioner to submit 'No Objection Certificate' of all the co-sharers as per HUDA oustees policy. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted 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. The petitioner shall be entitled to lead any evidence to substantiate his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

April 26, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

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