

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-1670-2018

Date of Decision: 29.1.2018

The Goodwill Haryana Accounts Employees Co-operative Group Housing Society Ltd., Panchkula

....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. P.C. Yadav, Advocate for the petitioner.

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 demand notice dated 28/29.12.2015 (Annexure P-9) vide which payment of enhanced compensation has been raised and to quash the order dated 30.8.2017 (Annexure P-19) denying the refund of 20% rebate as per the terms and condition 3F(i) of the Letter of Intent on the price (entire payment including the payments accrued due to enhancements). Further, a writ of mandamus has been sought directing the respondents to grant 20% rebate on the total amount paid to the respondents including the amount of two enhancements.

2. In the year 1990, Haryana Urban Development Authority (HUDA) acquired 254.75 acres of land for developing Group Housing

square meter. The petitioner submitted its application along with a demand draft of ₹ 2,41,200/- to respondent No.2 for the allotment of land. A Letter of Intent dated 27.12.1993 (Annexure P-1) for the allotment of land measuring 2000 square meters in Sector 20/G.H.14 was issued to the petitioner by respondent No.2 and the petitioner deposited a demand draft of ₹ 3,61,800/- in favour of respondent No.5. The allotment letter dated 15.6.1995 (Annexure P-2) was issued in favour of the petitioner for the plot in question at the tentative price of ₹ 24,12,000/-, i.e. ₹ 1206/- per square meter. Vide certificate dated 6.9.1996 (Annexure P-3), possession of plot No.14, Sector 20, Panchkula was handed over to the petitioner. Occupation certificate dated 15.7.1999 (Annexure P-4) was issued to the petitioner by respondent No.5 on completion of the construction work within three years of the date of possession. Respondent No.5 vide demand notice dated 30.9.2002 (Annexure P-5) raised the demand of first enhancement of compensation which was made by the petitioner. The second demand notice dated 8.7.2010 (Annexure P-6) was issued to the petitioner by respondent No.5. for the payment of enhanced compensation. The joint action committee of the petitioner protested on the enhancement of compensation to the farmers and thereafter revised order dated 19.10.2011 (Annexure P-7) of enhanced compensation was passed and the petitioner made payment of the same. The GHS 102 and 103, Sector 20, Panchkula challenged the enhancement in this Court by way of CWP Nos. 14689 and 17239 of 2010 and this Court vide order dated 25.9.2013 allowed the writ petitions by quashing the demand notices. The respondents were directed to constitute a committee who after providing an opportunity of hearing to the representatives of the Societies after providing them the material on the

basis of which calculation is to be made and then shall determine the amount by passing a speaking order in accordance with law, within a period of three months from the date of receipt of the certified copy of the order. In view thereof, respondent No.2 passed a speaking order dated 9.10.2015 (Annexure P-8) by revising the rates of first and second enhancements. Further, respondent No. 5 vide demand notice 28/29.12.2015 (Annexure P-9) raised a demand of payment of enhancement of compensation at the rate of ₹ 1315.06 per square meter. In response thereto, the petitioner moved a representation dated 27.1.2016 (Annexure P-10) to respondent No.5 with copy to respondent No.2 that it had already cleared all the outstanding amount and nothing is due against it. Respondent No.5 vide reply dated 24.2.2016 (Annexure P-11) informed the petitioner that the demand notice for payment of enhanced compensation had been issued on the basis of speaking order passed by respondent No.2 on the directions of this Court. Three members of the petitioner-society sent a justice demand notice dated 9.11.2016 (Annexure P-12) to the respondents for redressal of their grievances, but to no effect. The petitioner vide application dated 24.1.2017 (Annexure P-13) sought information under the Right to Information Act, 2005 from respondent No.5 but no information was provided to the petitioner. An appeal was made to the first appellate authority who vide order dated 26.4.2017 directed that the complete information be provided to the petitioner within 15 days. However, no such information was provided and the second appeal has been filed which is pending before the Chief Commissioner of Information, Haryana. Thereafter, the petitioner served legal notices dated 14.3.2017 (Annexure P-14) and dated 12.5.2017 (Annexure P-15) upon the respondents against the demand notice, Annexure

P-9. However, vide reply dated 12.5.2017 (Annexure P-19), respondent No.5 denied the rebate on the enhanced amount of compensation. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent the representation dated 27.1.2016 (Annexure P-10) and the legal notices dated 9.11.2016, 14.3.2017 and 12.5.2017 (Annexures P-12, P-14 and P-15, respectively) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the representation dated 27.1.2016 (Annexure P-10) followed by the legal notices dated 9.11.2016, 14.3.2017 and 12.5.2017 (Annexures P-12, P-14 and P-15, respectively), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

January 29, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes