

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-24361-2016

Date of Decision: 23.4.2018

Smt. Neelam Chauhan

....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. Sanjay Vashisth, Advocate for the petitioner.

Mr. Sandeep Moudgil, Additional 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, *inter alia*, prayed for issuance of a writ in the nature of certiorari for quashing the instructions dated 11.8.2016 (Annexure P-21) whereby it has been decided to return the pending application of oustees quota to the claimants along with already deposited earnest money; for quashing the letter dated 12.9.2016 (Annexure P-22) issued by respondent No.6 asking the petitioner to submit the details of bank account etc.; for quashing the order dated 13.11.2014 (Annexure P-8) passed by respondent No.6 rejecting the claim of the petitioner; for quashing the decision, if any, for e-auctioning of the vacant and unallotted

residential plots in Urban Estate, Rewari, in pursuance to the decision published in the newspaper dated 27.9.2016 (Annexure P-23) or in the alternative to quash the notification dated 23.1.1990 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by the notification dated 22.1.1991 (Annexure P-4) under Section 6 of the Act and the award dated 25.3.1992 (Annexure P-5) acquiring the land of the petitioner. Further, a writ of mandamus has been sought directing the respondents to allot a plot to the petitioner under the oustees quota.

2. The land situated within the revenue estate of village Rewari, Tehsil and District Rewari was transferred in the name of the petitioner by her husband vide civil court decree dated 10.1.1992 and mutation dated 29.2.1992 (Annexure P-1) thereof was sanctioned in her favour. In the jamabandi for the year 1998-99 (Annexure P-2), the said land was transferred in favour of the petitioner. Government of Haryana vide notification dated 23.1.1990 (Annexure P-3) issued under Section 4 of the Act followed by a notification dated 22.1.1991 (Annexure P-4) under Section 6 of the Act acquired the said land for the development and utilization of land as residential and commercial area in Sector 3 Part at Rewari. The award was passed on 25.3.1992 (Annexure P-5). Vide advertisement, Annexure P-6, the respondents invited the applications for the allotment of plots to the general public. The petitioner filed CWP-13231-2014 and this Court vide order dated 11.7.2014 (Annexure P-7) disposed of the said writ petition with a direction to the respondents to decide the right of the petitioner within two months from the date of receipt of certified copy of the order. In pursuance thereto, respondent No.6 vide

order dated 13.11.2014 (Annexure P-8) rejected the claim of the petitioner. Respondent No.5 vide advertisement dated 25.6.2015 (Annexure P-9) invited the applications from the oustees of Gurgaon, Rewari, Dharuhera and Narnaul. In response thereto, the petitioner submitted the application dated 30.7.2015 (Annexure P-10) along with the requisite fee which was received by the respondents vide receipt dated 8.7.2015 (Annexure P-11) and the affidavit dated 29.6.2015 (Annexure P-12). As per the lists, Annexures P-13 to P-15, respectively, there were vacant/unallotted plots in Sectors 3, 4, 18 and 19, Urban Estate, Rewari. Respondent No.3 vide letter dated 2.12.2013 (Annexure P-16) had withdrawn all the oustees policies framed prior to 7.12.2007. A policy dated 7.12.2007 (Annexure P-17) was framed for the first time to rehabilitate and re-settle the oustees fixing the cut-off date of applicability of the said policy as 5.3.2005. The said cut-off date was held to be illegal in order dated 25.4.2012 passed in LPA-2096-2011 as also clarified vide order dated 20.8.2014 (Annexure P-18) passed in CWP-2212-2014. Another policy dated 9.11.2010 (Annexure P-19) was also framed for the allotment of plots for acquisition of land/vacant area. Further, vide letter dated 4.12.2015 (Annexure P-20), respondent No.3 made partial modifications in the policies dated 6.5.1997 and 7.3.2011. The instructions dated 11.8.2016 (Annexure P-21) were issued by respondent No.4 whereby it was decided to return the pending application of oustees quota to the claimants along with already deposited earnest money. Further, vide letter dated 12.9.2016 (Annexure P-22), respondent No.6 asked the petitioner to supply the bank details for remitting the earnest money. Vide news item dated 27.9.2016 (Annexure P-23), it was published that 20000 vacant plots had been earmarked by the HUDA for auction. As per HUDA

portals dated 27.10.2016 and 28.10.2016 (Annexures P-24 and P-25, respectively), e-auctioning of plots of Panchkula and Rohtak had been started. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that after 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, the matter is required to be revisited by the authorities. Accordingly, it was 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 her claim before the

concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

April 23, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

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