

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-25205-2016

Date of Decision: 12.2.2018

Kulbir Rathi

....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. Sushil K. Sharma, Advocate for
Mr. M.L. Sharma, Advocate for the petitioner.

Mr. Sandeep Moudgil, Additional Advocate General, Haryana.

Mr. Baldev Raj Mahajan, Senior Advocate with
Mr. Deepak Sabharwal, 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 mandamus declaring the Policy dated 11.8.2016 (Annexure P-15) as illegal and arbitrary. Further, a writ of certiorari has been sought for quashing the letter dated 15.9.2016 (Annexure P-11) whereby the petitioner has been directed to apply for the allotment of a plot against fresh advertisement to be issued later and ordered for return of the application and earnest money along with interest already deposited by the petitioner; to quash the advertisement dated 16.9.2016 (Annexure P-14) inviting fresh

applications for the allotment of plots; to quash the policy dated 11.8.2016 (Annexure P-15) and to consider the application, Annexure P-6, moved by the petitioner in pursuance to the earlier advertisement dated 4.12.2011 (Annexure P-5).

2. The petitioner was owner of the land measuring 1 bigha 0 biswa to the extent of his share situated within the revenue estate of village Bahadurgarh as per jamabandi for the year 1999-2000 (Annexure P-1). The respondents vide notification dated 17.4.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by a notification dated 10.4.2003 (Annexure P-3) issued under Section 6 of the Act acquired the said land. The petitioner filed objections under Section 5-A of the Act. After issuance of notice under Section 9 of the Act, the award was passed on 23.6.2004 (Annexure P-4). The respondents vide advertisement dated 4.12.2011 (Annexure P-5) advertised plots for the allotment of plots under the oustees and general categories for Sectors 10 to 12. In response thereto, the petitioner applied for a plot measuring 1 kanal vide application, Annexure P-6, along with demand draft, Annexure P-7. The plots of one kanal and 10 marlas were allotted in the general category and also in the oustees category vide allotment letters including the allotment letter dated 24.10.2011 (Annexure P-10). Vide letter dated 15.9.2016 (Annexure P-11), the petitioner was advised to apply for the allotment of plot against fresh advertisement to be issued later and to submit the complete bank account details or crossed cheque/cancelled so that the application/earnest money deposited be refunded along with interest. The petitioner moved a representation dated 20.9.2016 (Annexure P-12) followed by a reminder dated 1.11.2016 (Annexure P-13) to respondent

No.5 for the allotment of a plot under the oustees quota, but no response has been received. However, respondent No.3 vide advertisement dated 16.9.2016 (Annexure P-14) invited applications for the allotment of plots. The respondents framed a policy dated 11.8.2016 (Annexure P-15) for settlement of oustees claims-terms and conditions thereof. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved a representation dated 20.9.2016 (Annexure P-12) followed by a reminder dated 1.11.2016 (Annexure P-13) to respondent No.5, but no action has so far been taken thereon. 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. The petitioner shall be entitled to lead any evidence to substantiate his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

February 12, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes