

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-21925-2017

Date of Decision: 1.3.2018

Ashwani Rathee and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Rajinder Sharma, Advocate for the petitioners.

Mr. Sandeep Moudgil, Additional Advocate General, Haryana.

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 petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the instructions dated 11.8.2016 (Annexure P-7), the proceedings dated 4.10.2016 (Annexure P-5) and the advertisement (Annexure P-8). Further, a writ of mandamus has been sought directing the respondents to allot a plot to the petitioners as per the entitlement under the oustees policies dated 18.3.1992 and 12.3.1993 (Annexure P-1 Colly).

2. In the year 1995, the land of the petitioners situated within the

revenue estate of Bahadurgarh, District Jhajjar was acquired by the State of Haryana for the development of Sectors 2, 9 and 9-A, Bahadurgarh. Haryana Urban Development Authority (HUDA) issued the policies dated 18.3.1992 and 12.3.1993 (Annexure P-1 Colly) for the allotment of plots to the landowners whose land was acquired by the HUDA. As per the details, Annexure P-2, the petitioners were entitled to the allotment of plots. In the year 2006, the HUDA invited the applications for the allotment of residential plots in Sectors 2 and 9-A, Bahadurgarh from the general public as well as the oustees. In response thereto, petitioners No.1 and 2 applied for the plots as per their entitlement along with the earnest money vide application dated 3.3.2006 whereas petitioner No.3 had not applied. The HUDA had not considered the claim of the petitioners under the oustees quota and their applications were kept in the general draw and were declared unsuccessful in the draw of lots. A number of oustees including the petitioners filed writ petitions and this Court vide order dated 29.11.2006 relegated all the matters to the HUDA for taking appropriate decision after affording reasonable opportunity. The petitioners again approached this Court by way of the writ petition and this Court vide disposed of the said writ petition in terms of the order dated 26.4.2012 (Annexure P-3) passed in CWP-10941-2010. The said order was upheld upto the Supreme Court. The HUDA issued instructions dated 4.12.2015 (Annexure P-4) and consequential vide proceedings dated 4.12.2016 (Annexure P-5), given 12% and 10% reservation to the oustees for plots above and upto 8 marla category. As per the information dated 30.7.2012 (Annexure P-6) supplied by the HUDA under the Right to Information Act, 2005, very few plots were available for allotment in Sectors 2, 9 and 9-A,

Bahadurgarh. The respondents had issued the instructions dated 11.8.2016 (Annexure P-7) on the basis of the order dated 26.4.2012 (Annexure P-3) passed by this Court. The respondents vide advertisement (Annexure P-8) invited applications from the oustees of Sectors 9 and 9-A, Bahadurgarh and the general public for the allotment of plots on the terms and conditions as mentioned in the brochure dated 21.9.2016 (Annexure P-10). As per the chart, Annexure P-9, the collector rate of the plots in Sectors 9 and 9-A, Bahadurgarh from the year 2006-07 to 2014-15 remained between ₹ 5000/- to ₹ 15,000/- per square yard whereas the allotment rate offered by the HUDA vide Annexure P-10 was ₹ 33,500/- per square meter. Hence, the present writ petition.

3. Learned counsel for the petitioners prayed that liberty be granted to the petitioners 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 petitioners 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 petitioners 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

petitioners within a period of six months from the date of receipt of the representation. The petitioners shall be entitled to lead any evidence to substantiate their claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

March 1, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

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