

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-2641-2017

Date of Decision: 26.3.2018

Hari Krishan

....Petitioner.

Versus

The State of Haryana and others

...Respondents.

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

PRESENT: Mr. Y.P. Malik, Advocate for the petitioner.

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 petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the policy dated 11.8.2016 (Annexure P-8) and the order dated 1.12.2016 (Annexure P-9) passed by respondent No.3. 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 of the petitioner and his three brothers measuring 24 kanal 10 marlas situated within the revenue estate of village Saketri, District Panchkula was acquired by the State of Haryana vide award dated 9.10.2003 for the development of Sectors 2 and 6, MDC, Panchkula as is clear from the jamabandi for the year 1996-97 and the oustees certificate (Annexure P-1 Colly). As per the certificate dated 25.4.2002 (Annexure P-2), the land of the petitioner fall in Sectors 1, 2 and 7, MDC between road Panchkula. Vide

advertisement dated 4.3.2012, the respondents had invited the applications

on prescribed proforma along with 10% earnest money from the oustees of Sectors 2 and 6, MDC, Panchkula. In response thereto, the petitioner had applied for a plot vide application dated 27.4.2012 (Annexure P-3) along with 10% earnest money vide draft dated 27.4.2012 and the affidavits dated 24.4.2012 (Annexures P-4, P-4/A to P-4/C). On examination, the application of the petitioner was found in order by the Screening Committee vide proceedings dated 18.7.2014 (Annexure P-5). Respondent No.3 vide letter dated 20.10.2014 (Annexure P-6) directed the petitioner to submit 'No Objection Certificate' from the other co-sharers in the shape of an affidavit duly attested from the Executive Magistrate. The said letter was duly replied by the petitioner. Thereafter, the petitioner served a legal notice dated 7.1.2016 upon the respondents for the allotment of a plot under the oustees quota, but to no effect. Accordingly, the petitioner filed CWP-1345-2015 and this Court vide order dated 4.4.2016 (Annexure P-7) passed in CWP-6684-2014 disposed of a bunch of petitions with a direction to the respondents to reconsider the claim of each petitioner strictly in terms of the decisions referred to above. A policy dated 11.8.2016 (Annexure P-8) was framed by the HUDA wherein it was advised to the landowners to apply for allotment of plot in fresh advertisement which would be issued after determination of reservation and the earnest money would be refunded along with interest. Respondent No.3 vide order dated 1.12.2016 (Annexure P-9) cancelled the application of the petitioner and ordered the refund the earnest money. The respondents issued an advertisement dated 11/12.1.2017 (Annexure P-10) for e-auction of the plots in Sectors 2 and 6, MDC, Panchkula. 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

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 his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

March 26, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No