

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-2882-2017

Date of Decision: 26.3.2018

Jaswant Singh 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. Y.P. Malik, 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 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 Screening Committee Report dated 18.7.2014 (Annexure P-6) in terms of the advertisement dated 4.3.2012 (Annexure P-2) and advising the petitioners to apply for allotment in fresh advertisement dated 11.1.2017 (Annexure P-9) issued subsequently. Further, a writ of mandamus has been sought directing the respondents to allot the plots to the petitioners under the oustees quota.

2. The petitioners were owners of the land situated within the revenue estate of Village Saketri, Tehsil and District Panchkula. The said

land was acquired by the State of Haryana vide award dated 9.10.2003 for the development and utilization of the same for residential, commercial and recreational MDC, Sectors 1 to 3, 5-A to 5-C, 6 and 7, Panchkula. The father of the petitioners applied for a plot along with 10% earnest money in the year 2004. The Screening Committee vide proceedings dated 9.12.2005 (Annexure P-1) rejected the claim of the father of the petitioners. The cousin brother of the father of the petitioners also applied for the allotment of a plot vide application dated 5.5.2005 and he was allotted one kanal plot in Sector 2 MDC, Panchkula under the oustees quota. Vide advertisement dated 4.3.2012 (Annexure P-2), 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 father of the petitioners had applied for the allotment of plot along with 10% earnest money vide application dated 13.3.2002 (Annexure P-3). The Screening Committee vide proceedings dated 18.7.2014 (Annexure P-4) rejected the claim of the father of the petitioners. The father of the petitioners, namely, Shri Matu Singh had died on 20.7.2014 as is clear from the death certificate dated 4.8.2014 (Annexure P-5). The petitioners filed an appeal before the Administrator, HUDA on 1.4.2015 and the respondents vide letter dated 7.12.2016 sent back the earnest money deposited by the father of the petitioners. Despite the settled law on eligibility for oustee claims by co-sharers, respondent No.3 vide Screening Committee Report dated 18.7.2014 (Annexure P-6) rejected the claim of the petitioners. 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. The respondents issued an advertisement dated 11.1.2017 (Annexure P-9) for e-auction of the plots in Sectors 2 and 6, MDC, Panchkula. Hence, the present writ petition.

3. Learned counsel for the petitioners 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 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 keeping in view the principles of law enunciated by the Full Bench of this Court in **Rajiv Manchanda's case (supra)**. The petitioners shall be entitled to lead any evidence to substantiate their 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