

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-336-2017

Date of Decision: 24.4.2018

Smt. Veer Kaur

....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. Sanjiv Gupta, 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 prayed for issuance of a writ in the nature of certiorari for quashing the policy dated 11.8.2016 (Annexure P-12) and the order dated 24.10.2016 (Annexure P-13) passed by respondent No.3 whereby the claim of the petitioner has been rejected. Further, a writ of mandamus has been sought directing the respondents to allot a commercial site/SCO to the petitioner for which she had already applied vide application dated 22.7.2016 (Annexure P-9).

2. Government of Haryana framed a policy dated 10.9.1987 (Annexure P-1) for the allotment of residential plots/commercial sites to the

oustees whose land was compulsorily acquired by the Haryana Urban Development Authority (HUDA). The said policy was amended from time to time vide policies dated 9.5.1990, 18.3.1992 and 12.3.1993 (Annexures P-2 to P-4, respectively). The land of the petitioner and her co-sharer situated within the Patti Taraf Inssar was acquired by the Government of Haryana vide notification dated 23.2.1989 issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by the notification dated 22.2.1990 under Section 6 of the Act for the development of Sector 13-17, Panipat. The award was passed on 21.2.1992. This Court vide order dated 25.4.2012 (Annexure P-5) passed in LPA-2096-2011 while disposing of a bunch of cases had decided the mode of allotment in future to the oustees for residential plot as well as commercial sites. Further, in CWP-10941-2010, this Court vide order dated 26.4.2012 (Annexure P-6) directed the HUDA to make allotment of plot to each and every co-sharer depending upon their respective entitlement. Against the order, Annexure P-6, the HUDA filed SLP-13375-2013 and the Supreme Court vide order dated 24.11.2015 dismissed the said SLP. Similar matter came up before this Court in various writ petitions including CWP-6684-2014 and this Court vide order dated 4.4.2016 (Annexure P-7) quashed the orders and directed the respondents to re-consider the claim of each of the petitioners. The HUDA vide advertisement dated 15.7.2016 (Annexure P-8) offered certain SCOs for open e-auction situated in Sector 13-17, Panipat for which the land of the petitioner was acquired. Accordingly, the petitioner made a representation dated 22.7.2016 (Annexure P-9) to respondent No.4 for the allotment of SCO/booth site under the oustees quota prior to e-auction dated 28.7.2016 situated in Sector 13-17, Panipat, but to no effect. Thereafter, the

petitioner filed CWP-15084-2016 and this Court vide order dated 29.7.2016 (Annexure P-10) disposed of the said writ petition with a direction to the respondents to decide the claim of the petitioner. The e-auction scheduled to be held on 28.7.2016 had failed as nobody participated in the said e-auction. The HUDA issued another advertisement dated 10.10.2016 (Annexure P-11) for e-auction of the SCOs situated in Sector 13-17, Panipat. This time also nobody had participated in the said e-auction. The HUDA framed a policy dated 11.8.2016 (Annexure P-12). Respondent No.3 vide order dated 14.10.2016 (Annexure P-13) rejected the claim of the petitioner for the allotment of SCO under the oustees quota. 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 24, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No