

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4605-2017

Date of Decision: 15.2.2018

Deepak Bagai

....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. Sanjiv Gupta, 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 order dated 1.12.2016 (Annexure P-14) passed by respondent No.4 whereby his claim for the allotment of plot only in the name of the petitioner and his family members has been rejected. Further, a writ of mandamus has been sought directing the respondents to issue the allotment letter in favour of the petitioner and his family members by deleting the name of the co-sharer.

2. As per the jamabandi for the year 1983-84 (Annexure P-1) and mutation dated 6.2.1991 (Annexure P-2), the petitioner along with his mother and brother was owner of the land measuring 23 kanal 3 marlas situated within the revenue estate of village Taraf Afgan, Panipat.

Government of Haryana framed a policy dated 10.9.1987 (Annexure P-3) 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-4 to P-6, respectively). Government of Haryana acquired the said land vide notification dated 23.10.1989 issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by the notification under Section 6 of the Act for the development of Sector 25, Part II, Panipat. The award was announced on 25.3.1991. The petitioner filed reference under Section 18 of the Act. A Full Bench of this Court vide order dated 1.10.2010 (Annexure P-7) passed in CWP-2575-2009 directed the respondents to make allotment of plot to each and every co-sharer depending upon the share of the oustee. The HUDA vide advertisement dated 30.11.2011 (Annexure P-8) invited applications for the allotment of plot to the landowners whose land was acquired. In response thereto, the petitioner applied for the allotment of a plot under the oustees category by depositing 10% amount of the total cost of the plot. Some of the landowners challenged the policy dated 12.3.1993 (Annexure P-6) by various writ petitions including CWP-10941-2010 and this Court vide order dated 26.4.2012 (Annexure P-9) disposed of the said writ petition by directing the HUDA to make allotment of plot to each and every landowners depending upon their respective entitlement. The order (Annexure P-9) passed by this Court was upheld by the Apex Court vide order dated 24.11.2015 in SLP-13375-2013. In the draw of lots held on 17.3.2016, the petitioner was allotted plot Nos.841 (8 marla) and 769-A (6 marla). The

petitioner also deposited 15% of the total tentative cost of the plot. 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-10) quashed the orders and directed the respondents to re-consider the claim of each of the petitioners. Thereafter, the HUDA framed a policy dated 11.8.2016 (Annexure P-11). When the respondents failed to take any action, the petitioner filed COCP-1692-2016 and during the pendency of the said COCP, respondent No.4 issued the allotment letter dated 28.10.2016 (Annexure P-12) in the name of the petitioner, his family members and the co-sharer. Respondent No.4 also filed affidavit (Annexure P-13) to the said COCP pleading that the petitioner was not entitled to the allotment of separate plot. However, respondent No.4 vide order dated 1.12.2016 (Annexure P-14), rejected the claim of the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the request of the petitioner for the issuance of allotment letter in the name of the petitioner and his family members has been rejected. Reliance was placed upon 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. 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 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

February 15, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes