

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4823-2017 (O&M)

Date of Decision: 15.2.2018

Jagdeep Singh

....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 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 16.2.2017 (Annexure P-12) vide which the claim of the petitioner for the allotment of plot under oustees category had been declined on the ground that the petitioner had not applied against the advertisement issued in the year 2011. Further, a writ of mandamus has been sought directing the respondents to make allotment of 1 kanal plot for which the petitioner had already applied vide applications dated 13.2.2017 (Annexures P-11 and P-14, respectively); to conduct the draw of lots within 30 days from the last date of submission of application form by including the name of the petitioner as per policy dated 11.8.2016 and to charge the rate of allotment as applicable in the year 2008 and not of the year 2016-17 as demanded vide advertisements dated 16.1.2017 and

6.2.2017 (Annexures P-10 and P-13, respectively).

2. The petitioner was owner of the land measuring 27 kanal 4 marlas to the extent of his share situated within the revenue estate of village Sewah, Tehsil and District Panipat as per the oustees certificate dated 14.2.2017 (Annexure P-1). Haryana Urban Development Authority (HUDA) framed a policy dated 10.9.1987 (Annexure P-2) for the allotment of residential plots to the landowners whose land had compulsorily been acquired by the HUDA. The said policy was amended from time to time vide policies dated 9.5.1990, 18.3.1992 and 28.8.1998 (Annexures P-3 to P-5, respectively) Government of Haryana acquired the said land vide notification dated 12.9.2001 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by a notification dated 1.3.2002 issued under Section 6 of the Act for the development of Sector 29, Part II, Panipat and the award was passed on 11.4.2002. The HUDA invited applications for the allotment of residential plots from the oustees whose land was acquired. Further, respondent No.2 issued the instructions dated 28.8.1998 (Annexure P-5/A) for the allotment of plots to the oustees in various urban estates set up by the HUDA. In pursuance thereto, the petitioner applied for a 10 Marla plot vide application dated 5.3.2008 and deposited 10% amount of the total tentative cost of the plot as is clear from the acknowledgment slip dated 5.3.2008 (Annexure P-5/B). As per the proceedings dated 14.7.2008 (Annexure P-5/C), the draw of lots was held and the name of the petitioner could not be successful as his name was clubbed with one Shri Ramdia co-sharer. Government of Haryana framed a policy for the allotment of plot under oustees quota on the basis of the directions issued by the Supreme Court vide order dated 3.1.2011

(Annexure P-5/D). On the basis thereof, the HUDA invited applications vide advertisement dated 8.11.2011 (Annexure P-6) for the allotment of plots whose land was acquired for the development of Sector 29, Part II, Panipat. In response thereto, the petitioner submitted the application dated 6.12.2011 (Annexure P-7). This Court vide order dated 4.4.2016 (Annexure P-8) passed in CWP-6684-2014 held that each and every co-sharer was entitled to the allotment of a separate plot according to his entitlement. Thereafter, the HUDA framed another policy dated 11.8.2016 (Annexure P-9) and as per the said policy, all the co-sharers were entitled to the allotment of separate plots according to their share in the acquired land. In pursuance to the said policy, the HUDA invited applications from the oustees whose land was acquired for the development of Sector 25, Part II, Panipat and from the oustees of adjoining sectors vide advertisement dated 16.1.2017 (Annexure P-10). The petitioner applied for the allotment of 1 kanal plot in Sector 25 Part II, Panipat vide application dated 13.2.2017 (Annexure P-11). However, respondent No.3 vide order dated 16.2.2017 (Annexure P-12) rejected the claim of the petitioner. Further, the HUDA vide advertisement dated 6.2.2017 (Annexure P-13) invited applications for the allotment of plots from the oustees whose land was acquired for the development of Sector 12 (Residential), Panipat and in response thereto, the petitioner submitted his application dated 15.2.2017 (Annexure P-14). Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the claim of the petitioner was rejected by respondent No.3 vide order dated 16.2.2017 (Annexure P-2). 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