

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4952-2017

Date of Decision: 15.2.2018

Vijay Kumar @ Vijender Kumar

....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 31.7.2014 (Annexure P-14) vide which the claim of the petitioner for the allotment of plot under oustees category had been declined on the ground that the petitioner can apply in future as and when the applications for allotment of plot under oustees quota would be offered in the adjoining sector. Further, a writ of mandamus has been sought directing the respondents to make allotment of 10 marlas plot for which the petitioner had already applied vide applications dated 13.2.2017 and 3.2.2017 (Annexures P-20 and P-22, 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 2011 and not of the year 2016-17 as demanded vide advertisements dated

2. Haryana Urban Development Authority (HUDA) framed a policy dated 10.9.1987 (Annexure P-1) 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, 12.3.1993, 28.8.1998 and 27.3.2000 (Annexures P-2 to P-6, respectively) The petitioner purchased the land measuring 5 kanal 15 marlas vide registered sale deed dated 27.6.1981 situated within the revenue estate of village Kheri Nangal, Tehsil and District Panipat and his name was incorporated in the jamabandi for the year 1986-87 (Annexure P-7). Government of Haryana acquired the said land vide notification dated 15.12.1982 (Annexure P-8) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by a notification dated 20.6.1984 issued under Section 6 of the Act for the development of residential/commercial and industrial sectors in Sectors 11, 12, 25 Part II, Panipat. The award was passed on 18.3.1985 (Annexure P-9). 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-10). On the basis thereof, the HUDA invited applications vide advertisements dated 30.11.2011 and 8.11.2011 (Annexures P-11 and P-12, respectively) 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 vide receipt dated 7.12.2011. When no action was taken on the said application, the petitioner moved a representation dated 22.4.2013 (Annexure P-13) to respondents No.3 and 4 for the allotment of plot under oustees quota in Sector 25, Part II, Panipat, but to no effect. Thereafter, the petitioner filed CWP-3342-2014

and this Court vide order dated 21.2.2014 disposed of the said writ petition with a direction to the respondents to consider and decide the claim of the petitioner. In compliance thereto, respondent No.3 vide order dated 31.7.2014 (Annexure P-14) rejected the claim of the petitioner. This Court vide order dated 4.4.2016 (Annexure P-15) 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-16) 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-19). The petitioner applied for the allotment of 10 Marla plot in Sector 25 Part II, Panipat vide application dated 13.2.2017 (Annexure P-20). Further, the HUDA vide advertisement dated 6.2.2017 (Annexure P-21) 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 2.3.2017 (Annexure P-22). Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved a representation dated 22.4.2013 (Annexure P-13) which was rejected by respondent No.3 vide order dated 31.7.2014 (Annexure P-14). 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/No

Whether Reportable

Yes/No