

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-5946-2017

Date of Decision: 25.4.2018

Tarsem Lal

....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. Satyapal Khatri, Advocate and
Mr. Anil Dutt, Advocate for the petitioner.

Mr. D.R. Singla, Deputy 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 letter dated 30.10.2015 (Annexure P-10) and the Policy dated 11.8.2016 (Annexure P-11). Further, a writ of mandamus has been sought directing the respondents to allot a plot to the petitioner in Sectors 27 and 28, Panchkula or in MDC, Panchkula as he had already deposited 10% earnest money along with the application form invited by the Haryana Urban Development Authority (HUDA).

2. The petitioner was owner of the land measuring 8 kanal 18 marla situated within the revenue estate of village Ramgarh, Tehsil and

District Panchkula. State of Haryana vide notification dated 26.6.1989

issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification dated 25.6.1990 under Section 6 of the Act acquired the said land for the development of Sectors 25 to 28, Panchkula as is clear from the certificate dated 24.4.2006 (Annexure P-1) issued by the Land Acquisition Collector, Panchkula. The respondents framed a policy dated 10.9.1987 for the allotment of a plot under the oustees quota. The said policy had been amended vide policies dated 18.3.1992 and 12.3.1992 (Annexure P-2 Colly). In response to the applications invited by the respondents under the oustees quota, the petitioner applied for a plot in Sector 27, Panchkula vide application No.108020 along with earnest money and the required documents. In the draw of lots held on 18/19.9.2006 for Sectors 27 and 28, Panchkula, the application of the petitioner was not entertained under the oustees quota. The claim of the petitioner was rejected but no information was communicated to the petitioner. The petitioner moved an application dated 25.3.2009 under the Right to Information Act, 2005 for getting the order of the oustees Adalat. Vide letter dated 12.5.2009 (Annexure P-3), the copy of the order dated 27.6.2007 was supplied to the petitioner. The claim of the petitioner was rejected for non-supply of requisite documents. Accordingly, the petitioner again submitted all the records of the land acquired vide diary No.19249 dated 8.9.2006. One similarly situated person, namely, Shri Ashok Kumar filed an appeal and the appellate authority vide order dated 6.2.2008 (Annexure P-4) held him entitled for the allotment of 1 kanal plot under the oustees policy. Said Shri Ashok Kumar had also filed CWP-20456-2006 and this Court vide order dated 21.8.2008 (Annexure P-5) disposed of the said writ petition with a direction to the HUDA to consider his claim under

the oustees quota within a period of four months from the receipt of a copy of the order. The case of the petitioner was fully covered with the case of said Shri Ashok Kumar. Thereafter, the petitioner filed CWP-11884-2010 which was allowed vide order dated 8.7.2010 (Annexure P-6). In compliance therewith, respondent No.2 vide order dated 5.1.2011 (Annexure P-7) rejected the claim of the petitioner. Against the order, Annexure P-7, the petitioner filed CWP-2174-2011 and this Court vide order dated 25.4.2012 (Annexure P-8) disposed of the said writ petition in terms of Sandeep's case (supra) against which, the petitioner filed SLP-9250-2012. The Supreme Court vide order dated 14.1.2015 (Annexure P-9) disposed of the said SLP with a direction to the HUDA to consider the case of the petitioner for the allotment of a plot under the oustees quota. In compliance therewith, respondent No.3 vide letter dated 30.10.2015 (Annexure P-10) informed that the petitioner can apply as and when applications were invited through publication in oustees quota in Sector 27, Panchkula as per the order dated 25.4.2012 passed in LPA-2096-2011 passed by this Court. The respondents also framed a policy dated 11.8.2016 (Annexure P-11) wherein, it was decided that the oustees can 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. However, no plot had been allotted to the petitioner till date. 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 his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

April 25, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No