

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-7518-2017

Date of Decision: 25.4.2018

Subhash Chand Aggarwal

....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. Ajit Malik, 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 mandamus directing respondent No.3 to make allotment of a plot to him by way of draw of lots as provided in the policy dated 11.8.2016 (Annexure P-14) for which the petitioner had already applied vide his application dated 23.12.2016 (Annexure P-16) against the advertisement dated 24.11.2015 (Annexure P-15) by including the left out plots.

2. The Haryana Urban Development Authority (HUDA) 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 petitioner along with

extent of his share situated within the revenue estate of village Ugra Kheri, Tehsil and District Panipat as per the jamabandi for the year 1996-97 (Annexure P-1). State of Haryana vide notification dated 2.3.1993 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by the notification dated 1.3.1994 under Section 6 of the Act acquired the said land for the development of Sector 24, Panipat. The award was passed on 28.2.1996. In the year, 2006, the HUDA invited applications for the allotment of residential plots from the oustees/landowners whose land was acquired. In response thereto, the petitioner applied for a plot in Sector 24, Panipat vide application No. 609950 along with 10% earnest money under the oustees quota as is clear from the acknowledgment slip, Annexure P-6. The draw of lots was held by Respondent No.4 and the petitioner was shown in the list of successful candidates. Respondent No.4 issued allotment letter dated 15.5.2007 (Annexure P-7) in the name of co-sharer, namely, Pawan Kumar and the petitioner. Government of Punjab had also framed a oustees policy which was revised on 6.9.1994 and the allotment of plot to the oustees was restricted to one plot irrespective of number of co-sharers and the Full Bench of this Court vide order dated 1.10.2010 (Annexure P-8) passed in CWP-2575-2009 held that the provisions of the oustees policy restricting allotment of one plot to all the co-sharers against Articles 14 and 21 of the Constitution of India. The petitioner sought an information under the Right to Information Act, 2005 as to why the plot had not been allotted under the oustees category for which he had applied in the year 2006 and in response thereto, vide letter dated 19.5.2011 (Annexure P-9), the petitioner was informed that his claim was clubbed with the co-sharer, Pawan Kumar and

that all the co-sharers were entitled to only one plot. The petitioner filed CWP-9289-2011 which was disposed of along with CWP-10941-2012 vide order dated 24.4.2012 (Annexure P-12) with directions to the respondents to make the allotment of plot to all the co-sharers. Thereafter, the petitioner served pre-contempt notice dated 6.3.2013 (Annexure P-11) upon the respondents for the allotment of a separate plot. SLP-13375-2013 filed against the order dated 25.4.2012 passed in CWP-10941-2010 was dismissed by the Supreme Court vide order dated 24.11.2015. 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-12) quashed the orders and directed the respondents to re-consider the claim of each of the petitioners. The petitioner filed CWP-11358-2016 and this Court vide order dated 1.6.2016 (Annexure P-13) disposed of the said writ petition in terms of the order dated 4.4.2016 passed in CWP-6684-2014. The respondents had framed a policy dated 11.8.2016 (Annexure P-14) to the effect that a co-sharer in the land would not be eligible to claim allotment of plot if he had given a no objection certificate in favour of his co-sharer and on account of submission of such no objection certificate, a plot was allotted to such co-sharer in any previous flotation of plots for oustees. Vide advertisement dated 24.11.2016 (Annexure P-15), the respondents invited the applications for the allotment of plots to the oustees whose land was acquired for the development of Sectors 18 and 24, Panipat. In response thereto, the petitioner applied for the allotment of a plot vide application dated 23.12.2016 (Annexure P-16) along with 10% earnest money. However, no plot had been allotted to the petitioner till date.

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 an application dated 23.12.2016 (Annexure P-16) to the respondents, but no action has so far been taken thereon. 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. The petitioner shall be entitled to lead any evidence to substantiate his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

April 25, 2018
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(ANUPINDER SINGH GREWAL)
JUDGE