

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-7897-2017

Date of Decision: 25.4.2018

Sandeep

....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. Ranjit Saini, Advocate for the petitioner.

Mr. D.R. Singla, Deputy Advocate General, Haryana.

Mr. Deepak Balyan, 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, *inter alia*, prayed for issuance of a writ in the nature of certiorari for quashing the order dated 9.5.2016 (Annexure P-7) passed by the Screening Committee holding the petitioner as not eligible for the allotment of plot under the oustees quota; the policy dated 11.8.2016 (Annexure P-9 and e-auction notices/advertisements (Annexures P-10 and P-11, respectively). Further, a writ of mandamus has been sought directing the respondents to allot a plot to the petitioner under the oustees quota.

2. The petitioner along with other co-sharers was owner of the land measuring 25 kanal 3 marlas situated within the revenue estate of

village Jharsa, Tehsil and District Gurgaon. Government of Haryana vide notification dated 20.4.1990 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification under Section 6 of the Act acquired the said land for the development of Sectors 44 to 46, Gurgaon. The award was passed on 23.3.1993. The respondents framed the policies dated 18.3.1992, 12.3.1993 and 28.8.1998 (Annexures P-1 to P-3, respectively). This Court vide orders dated 6.2.2002 passed in CWP-17506-1996 and 6.7.2006 in CWP-17565-2003 (Annexures P-4 and P-5, respectively) held that the persons whose land had been acquired other than the compensation were also entitled to the allotment of land/plot for industrial/commercial/residential purposes. The petitioner moved an application dated 15.10.2008 along with earnest money by way of draft and receipt dated 15.10.2018 (Annexure P-6 Colly) to respondent No.3 for the allotment of plot under the oustees category. When no action was taken on the said application, the petitioner filed CWP-7252-2009 and this Court vide order dated 14.5.2009 disposed of the said writ petition with a direction to respondent No.3 to consider and dispose of the petitioner's claim for allotment of a plot under the oustees policy. In pursuance thereto, respondent No.3 vide order dated 2.9.2009 rejected the claim of the petitioner. Against the said order, the petitioner filed CWP-19927-2009 and this Court vide order dated 16.5.2011 allowed the said writ petition against which the respondents filed LPA which was disposed of vide order dated 25.4.2012 with a direction to consider the claim of the petitioner. In response thereto, the Screening Committee vide order dated 9.5.2006 (Annexure P-7) rejected the claim of the petitioner holding not entitled to the allotment of plot. Thereafter, the petitioner filed COCP-1704-2015 and

this Court vide order dated 9.3.2017 (Annexure P-8) disposed of the said contempt petition with liberty to the petitioner to challenge the order, Annexure P-7, in the appropriate forum. The respondents had framed a policy dated 11.8.2016 (Annexure P-9) vide which it was decided to refund the earnest money along with interest to the applicants whose claims were pending and they may apply afresh as and when the applications would be invited for the allotment of plots. Thereafter, the respondents vide e-auction notices (Annexures P-10 and P-11, respectively) started e-auction of the vacant plots. 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