

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-8979-2017

Date of Decision: 6.3.2018

Pritam 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. J.S. Dahiya, Advocate for the petitioner.

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

Mr. Anil Chawla, 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 respondents No.2 to 4 to allot a plot to the petitioner as per the entitlement under the oustees category against which he had already applied vide application dated 5.12.2011 (Annexure P-10) against the advertisement dated 7.11.2011 (Annexure P-9).

2. Government of Haryana framed a policy dated 10.9.1987 (Annexure P-1) which was amended vide policies dated 9.5.1990, 18.3.1992, 12.3.1993 and 28.8.1998 (Annexures P-2 to P-5, respectively) for the allotment of plots to the landowners whose land was acquired by the Haryana Urban Development Authority (HUDA). The petitioner along with

co-sharer was owner of the land situated within the revenue estate of village Siwah, Tehsil and District Panipat as per the jamabandi for the year 1994-95 (Annexure P-6) and the letter dated 15.2.2002 (Annexure P-6/A) issued by respondent No.4. Government of Haryana vide notification dated 12.9.2001 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification dated 1.3.2002 under Section 6 of the Act acquired the said land for the development and utilization of land for shifting of dyeing units in Sector 29, Part II, Panipat. The award was passed on 11.4.2002. The HUDA invited applications for the allotment of plots to the general public as well as to the oustees. The petitioner applied for the plot vide application dated 18.2.2008 along with 10% amount as earnest money. As per the list, Annexure P-7, the petitioner was eligible for the allotment of 1 kanal plot. Respondent No.4 held the draw of lots on 28.8.2008 and the name of the petitioner was not including in the draw of lots. S/Shri Karan Singh, Randhir and Rambhaj moved an application dated 7.2.2011 under the Right to Information Act, 2005 regarding the status of the plot and respondent No.4 vide letter dated 10.2.2011 (Annexure P-8) informed that their co-sharer had already been allotted plot No.67, Sector 24, Panipat under the oustees category. The petitioner filed CWP-3953-2011. Thereafter, the HUDA vide advertisement dated 7.11.2011 (Annexure P-9) invited the applications for the allotment of plots under oustees quota whose land was acquired for the development of Sector 29, Part II, Panipat. In response thereto, the petitioner applied vide application dated 5.12.2011 (Annexure P-10) with a request to adjust ₹ 50,000/- as earnest money from 10% amount of ₹ 1,68,900/- already deposited along with the application dated 18.2.2008. One Shri Ram Bhaj filed CWP-6146-2011 which was

disposed of by this Court vide order dated 26.4.2012 (Annexure P-11) in terms of the order dated 26.4.2012 (Annexure P-11) passed in CWP-10941-2010 wherein this Court had held that each and every co-sharer would be entitled to the allotment of a residential plot according to his entitlement. The SLP filed by the HUDA against the order, Annexure P-11, passed in CWP-10941-2010 was also dismissed by the Supreme Court vide order dated 24.11.2015 (Annexure P-12). When no action was taken on the application of the petitioner, the petitioner filed CWP-20638-2016 and this Court vide order dated 3.10.2016 (Annexure P-16) disposed of the said writ petition with a direction to the respondents to pass a speaking order within a period of three months from the date of receipt of certified copy of the order. In pursuance thereto, respondent No.4 vide order dated 28.2.2017 (Annexure P-17) rejected the claim of the petitioner by holding that as per the policy dated 11.8.2016, whenever the Department would take action for flotation of oustees plots, then the advance money along with documents of ownership with application would be deposited in the office of respondent No.4 it would be included in the draw after completion of all formalities and the allotment would be done as per the oustees policy. 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

March 6, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No