IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-909-2018

Date of Decision: 23.1.2018

Power Welfare Organization, Gurugram

....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. Atul Lakhanpal, Senior Advocate with
Mr. Aftab Singh Khara, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this 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 notices dated 4.9.2015 and 29.7.2016 (Annexures P-6 and P-8, respectively) and to direct the respondents to provide the break-up of the enhanced amount being claimed by respondent No.3 from the petitioner. Further, directions have been sought to the respondents to provide the detailed calculations and to decide the objections filed by the petitioner.

2. Government of Haryana issued a notification dated 20.4.1990 (Annexure P-1) under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 18.4.1991 under Section 6 of the Act for acquisition of land situated in villages Jharsa, Kanhai, Bandapuri and Shamaspur. The award was passed on 23.3.1993. After the acquisition of the land in the year 1998, respondent No.3 launched GHS-98 Scheme for the allotment of land to the Cooperative Societies. Initially, the Haryana Urban Development Authority (HUDA) allotted 19 acres of land in Sector

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43, Gurgaon for Power Grid Corporation of India and thereafter 3 more acres of land was allotted making total land of 22 acres in their favour. The said land was sub-divided into two parts for establishing Power Welfare Organization, a Society for Employees of Power Grid Corporation of India, Central Government Employees and Haryana Government Employees and on the remaining 12 acres of land, the Power Grid formed a township for providing residence to the employees of Power Grid Corporation of India with the approval of the State of Haryana and Power Welfare Society was formed for providing dwelling units to the employees of Power Grid, Government of India and Government of Haryana. The Power Grid Corporation was allotted a Group Housing Site in Sector 43, Gurgaon measuring 22 acres on free hold basis at the tentative cost of ₹ 37,40,66,000/- by respondent No.3 by way of sale vide allotment letter dated 21.6.1999 (Annexure P-2). The agreement dated 8.10.2002 (Annexure P-3) was entered into between the petitioner and respondent No.3. Initially, the land was allotted to the Power Grid Corporation at more than 25% higher price at the time of allotment in the year 1999, @ ₹ 170.03 lakhs per acre, i.e. ₹ 3513/- per square yard and subsequently, with the approval of the Government, the land was bifurcated into two parts of 10 acres and 12 acres, respectively. The petitioner was bound to pay ₹ 3513/- per square yard when the other similar situated societies in the same cluster were provided land @ ₹ 2700-2800 per square yard and, therefore, the petitioner had already paid 25% than the actual cost of the land given to the other similar situated persons. The detailed calculation of the demand notice to be given by respondent No.3 was necessary to calculate the actual break-up of the amount paid by the petitioner to respondent No.3. Further, the

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request of the Power Grid Corporation for the sub division of the plot into two parts, i.e. Part I and Part II was accepted by respondent No.2 on 12.1.2001 and now in Part I Power Welfare Organization (10 acres approximately) and Part II Power Grid Township (12 acres) existed. The petitioner paid its share of land cost to Power Grid Corporation and the same was acknowledged by the HUDA and a agreement dated 19.7.2001 (Annexure P-4) was executed between the petitioner and the HUDA. The entire construction has been completed and the completion certificate has been issued by the HUDA. However, respondent No.3 issued a demand notice dated 8.5.2012 (Annexure P-5) directing the petitioner to deposit the enhanced compensation @ ₹ 5185/- per square yard. In response thereto, the petitioner submitted its reply dated 4.6.2012 (Annexure P-5). One of the societies, namely, Mahalaxmi Apartment filed CWP-5795-2013 and this Court vide order dated 11.7.2013, disposed of the said writ petition as infructuous. Respondent No.3 vide letter dated 12.12.2013 withdrew the said demand notice. Copies of CWP-5795-2013, order dated 11.7.2013 and the letter dated 12.12.2013 are attached as Annexure P-7 Colly with the instant writ petition. The petitioner received another notice dated 28.11.2013 (Annexure P-9) in the name of Power Grid Corporation of India and the petitioner replied dated 13.1.2014 (Annexure P-9) to the said notice to recall the same. Thereafter, respondent No.3 issued fresh demand notice dated 4.9.2015 (Annexure P-6) asking the petitioner to deposit a sum of ₹ 6,75,40,448/-. The petitioner filed reply dated 1.10.2015 (Annexure P-11) to the said demand notice. Vide notice dated 29.7.2016 (Annexure P-8), respondent No.3 asked the petitioner to show cause as to why the penalty be not imposed upon them. In pursuance thereto, the petitioner submitted its

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reply dated 26.8.2016 along with legal reply dated 4.2.2017 (Annexure P-12 Colly) for break-up of the amount being claimed by respondent No.3, but to no effect. Thereafter, the petitioner sent a representation dated 10.4.2017 (Annexure P-13) to respondent No.3 requesting for supply of the complete statement of account and calculation sheet of the amount being claimed, but no response has been received 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 sent a reply dated 26.8.2016 along with a legal reply dated 4.2.2017 (Annexure P-12 Colly) followed by a representation dated 10.4.2017 (Annexure P-13) to respondent No.3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the reply dated 26.8.2016 along with a legal reply dated 4.2.2017 (Annexure P-12 Colly) followed by a representation dated 10.4.2017 (Annexure P-13), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

January 23, 2018 **(ANUPINDER SINGH GREWAL)**
gbs **JUDGE**

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**

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