

LPA No.191 of 2017 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

LPA No.191 of 2017 (O&M)

Date of decision:11.10.2018

Baljinder Singh

... Appellant

Vs.

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. J.P.S.Sidhu, Advocate
for the appellant.

Ms. Anu Pal, Deputy Advocate General, Punjab.

Mahesh Grover J. (Oral)

C.M.No.393 of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 23 days in filing the appeal is condoned.

C.M stands allowed.

LPA No.191 of 2017 (O&M)

This appeal is directed against the judgment of the learned Single Judge dated 08.12.2016. The appellant has pressed his claim for compassionate appointment based on the rights of the oustees as per the policy introduced by the State itself. The land of the appellant having been acquired, he claimed that he would be entitled to employment.

The policy is not in dispute and the only reason why the claim

has been denied is that the appellant was not found to be a resident of Gobindpura and did not furnish the adequate proof of his un-employment. The learned Single Judge accepted this reasoning and declined interference which has given cause in the present appeal to contend that the land in Gobindpura belonging to his father was concededly acquired and merely because he himself was residing at Adarsh Nagar, Bathinda, would be inconsequential. Besides that he contended that exceptional hardship as set out in policy is capable of being interpreted loosely as no parameters have been provided to ascertain what would constitute exceptional hardship.

The State on the other hand justifies its stand and the judgment of learned Single Judge.

After hearing the learned counsel for the parties, we are of the opinion that the impugned judgment deserves to be set aside. It is not in dispute that land of appellant's father situated in Gobindpura was certainly acquired. Merely because he himself was residing at some other place would be inconsequential considering that policy is intended for oustees whose land has been acquired. The condition of being a resident for a period of 05 years would be attached to the owner of the land. The appellant being the son would certainly come within the claim of an oustee as it is not disputed that wards of those persons whose land has been acquired are entitled to such benefit. That apart the term “exceptional hardship” is totally ambiguous and decline a claim on the ground that appellant failed to produce any evidence to prove his “exceptional hardship” would be left to the whims of the decision making authority. Therefore, we do not agree

with the reasoning of the learned Single Judge. Learned counsel for the appellant has also pointed out that in similar circumstances respondents while following the policy numerous persons have been granted the benefit.

Accordingly, we accept the appeal and direct the respondents to consider the case of the appellant in the light of what has been observed above.

Disposed of.

(Mahesh Grover)
Judge

(Amit Rawal)
Judge

11.10.2018
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No