

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P No. 9836 of 2019 (O&M)

Date of decision: 27.05.2019

Wyan Industries Pvt. Ltd.

.....Petitioner

Vs.

HSI IDC & Anr.

...Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE LALIT BATRA**

Present:- Mr. Girish Agnihotri, Sr.Advocate, with
Mr. Ashish Kumar, Advocate, for the petitioner.

Mr. Ankur Mittal, Addl. A.G. Haryana.

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MAHESH GROVER, J. (Oral)

C.M No. 8352 -CWP of 2019

Allowed as prayed for subject to all just exceptions.

C.W.P No. 9836 of 2019

This is a writ petition filed by the petitioner with a prayer that order dated 05.04.2019 (Annexure P-10) be quashed to the extent that it obligates the petitioner to pay Rs.22,885/- per square metre as the price for the plot as against Rs.19,900/- per square metre, which according to him is wrong.

The Corporation floated a proposal offering industrial plots at Technology Park, Industrial Area, Rai against which the petitioner applied intending to set up Computer Software project. The petitioner was allotted a plot. The petitioner had submitted, as per the procedure, a project report and for his business venture he had collaborated with foreign company for development of Industrial I.T Software. In order to assess further feasibility of the process the petitioner availed the services of consultants who reported the unlikelihood of

success of I.T based industries at Rai.

It is pertinent to mention here that 1300 plots were advertised in the vicinity of the area out of which 32 were intended for Food Park in Rai. The number went up by 20 when a subsequent corrigendum was issued. Finding lesser feasibility of the I.T project, the petitioner submitted representation to the respondents seeking conversion of the plot to an industrial category, which was allowed vide order dated 21.03.2018. The relevant portion is extracted here-below:-

“ I have heard the applicant and agree with his contention that Rai area has not picked up in IT industry which is primary focused in Gurugram & Manesar Estates. The applicant has committed that he will not avail higher FAR that is permitted for IT industry and will make investment and create employment. Keeping in view the above, the category of plots i.e. TP3 & TP3A allotted to the applicant are converted from IT to industrial and he will have to pay rates as applicable to Industrial Plots and comply with terms and conditions as applicable to Industrial Plots. It is hereby ordered accordingly.”

This order was followed up by another order recommending issuance of letter to the petitioner for continuation of the regular letter of appointment. The relevant portion of order dated 04.05.2018 is as below:-

“ We may issue a letter to the allottee in continuation of the RLA, intimating that the allotment rate in the RLA shall be read as Rs.19,900/- psm as against Rs.22,885/- psm, in which case agreement shall have to be executed manually (otherwise agreement, is generated through system) and the allottee ledger shall also have to be maintained manually.”

Thereafter the matter was referred to the committee which decided as follows:-

“Reg: Plot No. TP-3 & TP-3A, Technology Park, Rai regarding conversion of IT based to industrial purpose plot and revision of rates accordingly – M/s Wyan Industries Pvt. Ltd.

Recommendation of Committee.

The Committee noted the issue involved as well as speaking orders passed by the then WMD 21.03.2018 in this case and orders dated 05..02.2018 passed in the matter by the Hon'ble Punjab and Haryana High Court.

Vide aforesaid speaking orders, the plot has already been converted from IT to industrial and the only issue before this Committee is to decide the pricing as per the speaking order.

The Committee noted that as per speaking orders, applicant was asked to pay rate as applicable to industrial plots. As per allotment procedure, in case the no. of applications are less than or equal to plots offered, the allotment is done at the prevailing allotment rates. Against the aforesaid two plots offered for allotment, there were only two applications and as such, plots were allotted at reserved price and upon conversion of plot from IT to General, the allotment rate as per prevailing for industrial plots is to be applicable as per speaking orders dated 21.03.2018, which was Rs.19,900/- per sq. Mtr and accordingly the same can be charged.

Sd/-

Sd/-

Sd/-

Addl. GM(RH)

Addl. GM(SG)

HOD (Estates)”

rather was apprehending levy of penal interest etc. He, thus, made a representation to the respondents and it is essential to refer to the relevant content of the representation, which we extract here-below:-

“ Hence, we further request you for permission of agreement with IE Rai as per policy and order. Since the possession of the plot has not been given till date, we request that no interest or penal interest be charged, till actual handing over of the possession after execution of the agreement. Since, this issue has been pending for the past so many months, we request you to kindly expedite the same at the earliest.

Looking forward for your kind support at earliest”

Since nothing was being done, the petitioner approached this Court by way of C.W.P No 3178 of 2019 which we disposed of with a direction to the respondents to consider the representation made by the petitioner. It is necessary to state that aforesaid extracted portion of the representation was the only concern raised by the petitioner.

Instead of considering the request of the petitioner, the respondents then passed the impugned order, stating that the conversion from I.T to industrial plot would sustain to the petitioner but the rates of I.T plots would prevail. This is a cause of grievance to the petitioner, who contends that once conversion from I.T plot to industrial plot had been permitted with the rates already prescribed there would be no occasion for the respondents to revisit the decision altogether.

Learned counsel for the respondents with some vehemence argues that all does not seem to be well, considering that the petitioner applied against the I.T plots which were merely two in number and the policy of the State dictates that if the plots available are not in excess of the applicants then it necessarily has to be

would flow automatically to the limited applicants and not invite a competitive rate through bidding. It is stated that the petitioner took advantage of this and then seeks further millage by converting it into industrial plots which fetched higher price when competitive process was resorted to qua three plots of the same or similar sizes.

It is further stated that impugned decision is in the interest of the Corporation and what was wrong earlier has now been righted. It is further argued that earlier orders were merely recommendations and not orders in favour of the petitioner.

After hearing learned counsel for the parties we are of the opinion that the impugned order mandating a higher rate of I.T plot would be unsustainable. The petitioner had applied for plot under the I.T category and it was none of his concerns at that point of time at least to question the decision of the Corporation for including I.T plots with those of the industrial plots intended for a Food Park. Finding the project unfeasible he made a representation to the Corporation for a conversion of the intended purpose to an industrial one from the original purpose of an I.T plot which was allowed by the Corporation as per the orders noticed by us. It is not one but two successive officers and a Committee which went into the decision making and we, therefore, cannot accept the contention of the respondents when they stated that it was merely recommendations and not an order. Pursuant to the earlier writ petition when we mandated a consideration it was with regard to the concern by the petitioner in its representation, of the plot not being given to him and, thus, the Corporation was bound to consider this aspect rather than revisit the whole decision of the earlier authorities and the committee as well. Vide impugned order virtually the entire decisions of the competent authorities have been reviewed and it makes a poor reading when an

explanation is given that conversion from I.T to industrial plot would be a decision to be maintained in deference to the senior officers who passed earlier orders but the demand of the rates which was also done by the senior officers, would be unacceptable to the officers who passed the impugned order.

Beside the petitioner is not at fault at all. The attempt of the respondents to show the petitioner responsible for a manipulative exercise, is not acceptable, for the facts do not show any illegality or irregularity at the hands of the petitioner. The respondents have to blame themselves and none other.

Looking at the facts noticed above cumulatively we are of the opinion that the impugned order demanding a higher price for I.T plot would be unsustainable considering that conversion has been permitted by the authorities themselves. Petition is allowed and the respondents are directed to give the plot to the petitioner as per the decision taken on 21.03.2018 (Annexure P-4) and May 2018 (Annexure P-6).

Needful be done within a period of three months.

Petition stands allowed.

(MAHESH GROVER)
JUDGE

May 27, 2019
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(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No