

CWP No.14403 of 2019

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

CWP No.14403 of 2019

Date of Decision:-27.05.2019

Ex. Servicemen Welfare Association Safidon.

.....Petitioner.

Versus

State of Haryana & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present:- Mr. Hardeep Singh, Advocate for
Mr. Rajbir Singh, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner-Association has filed the instant writ petition, seeking writ in the nature of Mandamus for directing the State of Haryana to consider its case as per Category III Rule 6(5) of The Punjab Village Common Lands Regulation Rules, 1964 for construction of a dispensary in the village Safidon, District Jind for the welfare of residents of the said village.

Learned Counsel for the petitioner-association has argued that at one point of time, the petitioner-association was granted 4 Marlas of land for construction of a building for carrying out charitable work, however, due to some party faction, the said building could not be constructed on account of a writ petition having been

filed before this Court, whereby this Court had merely directing the concerned officials to look into the matter before approving any construction. It is submitted that instead of taking a pragmatic view the concerned officer rejected the proposal, to which the petitioner-association has been moving representations, however, no response has been elucidated and, therefore, the instant writ petition.

We have heard learned Counsel for the petitioner at length and scrutinized the paper book with his able assistance. However, we find no merit in the instant writ petition and, therefore, same deserves to be dismissed.

Admittedly, at one point of time Gram Panchayat had passed a resolution for allocation of 4 Marlas of land for construction of a small building by way of lease deed for a period of 33 years. However, said allocation was challenged before this Court by some villagers by way of filing CWP No.7943 of 2010, which was disposed off vide order dated 08.12.2010. As per the order, petitioners therein (i.e. the residents) were granted liberty to pursue with the Authorities concerned under Section 10A of The Punjab Village Common Lands (Regulation) Act, 1961 or under Section 47 of the Haryana Panchayati Raj Act, 1994. It is further not in dispute that in pursuance of the said order, the concerned Authority, vide order dated 22.03.2010 had rejected the approval granted for construction of said building. From the said facts it is clear that the Authorities have already taken a decision not to allocate land to petitioner-association and the said decision inspite of being appealable has not been made a subject matter of challenge before any competent

authority or court of law till date, which includes the present writ petition as well. Once that is so, we are afraid we cannot interfere at this stage, especially when the decision to reject the allotment/resolution of Panchayat was taken nearly 8 years ago and said decision was never impugned in appeal or otherwise.

Even otherwise, we are of the view that process/decision of allocating land for any purpose should be left to the discretion of the Authorities concerned. The courts, while exercising discretion under Article 226 of the Constitution should be slow to interfere or assume the functions of executive, as any such direction or interference would essentially mean usurping the powers of executive functionaries.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

(AVNEESH JHINGAN)
JUDGE

May 27, 2019
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No