

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

108

**CWP No.16271 of 2019
Date of Decision: 01.07.2019**

Sunder Singh @ Surender Singh and othersPetitioners

Versus

State of Haryana and othersRespondents

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Sukhwinder Singh Dhillon, Advocate for
Mr. Jagmohan Ghumman, Advocate for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners have prayed for the issuance of a writ in the nature of certiorari for quashing the order dated 16.04.2019 (**Annexure P-5**) passed by the Deputy Commissioner, Gurugram and also a writ in the nature of mandamus for seeking a direction to the respondents to deliver possession of the residential sites allotted to them in terms of Mahatama Gandhji Gramin Basti Yojna vide registered allotment/gift documentation.

In brief, the Gram Panchayat Shikohpur had allotted 100 sq. yds. residential plots to the eligible persons under the Mahatama Gandhi Gramin Basti Yojana (in short "Yojna") out of Khasra No.2431 which was reserved under Sections 4 and 5 of the Punjab Land Preservation Act, 1900 and being the 'Forest Area' no construction was allowed. Therefore, the petitioners came to the Court in CWP No.14771 of 2015 titled as "Surinder Singh and others Vs. State of Haryana and others", which was disposed of on 24.08.2015 with the following order:-

"The grievance of the petitioners is against non-delivery of possession of 100 square yard plots allotted to them under the Mahatma Gandhi Gramin Basti Yojna. The petitioners belong to poor strata of Society and are living below poverty line.

The Deputy Commissioner, Gurgaon has filed his reply-affidavit in which it is, inter-alia, averred that the land where plots were earlier carved out was found to be 'forest area' where no construction can be raised. The Gram Panchayat meanwhile identified another khasra number and has resolved to give alternative plots to the petitioners at the new site.

There can be no doubt that the 'forest land' cannot be utilized for non-forestry activities, hence the decision of the District Administration and/or the Gram Panchayat to allot alternative plots to the petitioners appears to be fair, just and equitable. Let the petitioners give their consent for alternative allotments and on receipt thereof, we direct the Deputy Commissioner, Gurgaon to do the needful as early as possible but not later than two months from the date of receiving consent of the petitioners.

Ordered accordingly.

Dasti."

Thereafter, a representation dated 02.11.2015 was made by the petitioners to the Deputy Commissioner for handing over the possession of the plots. Since the representation was not decided, the petitioners, therefore, filed COCP No.369 of 2016, which was decided by this Court on 12.09.2018 with the following order:-

"In compliance with the order passed by this Court on 09.08.2018, status report by way of affidavit of Deputy Commissioner, Gurugram, has been filed in Court. Paras 4 and 5 of the said affidavit read as under:-

"4. That in compliance of orders dated 09.08.2018 passed by the Hon'ble High Court the answering deponent has called a report from District Forest Officer, Gurugram vide letter No.1759 dated 14.08.2018 and letter No.1854 dated 19.08.2018. The Divisional Forest Officer, Gurugram sent his report vide letter No.1157-G dated 07.09.2018 and stated that Khasra No.2342 of Village Shikohpur is not covered under Section 4 & 5 of Punjab Land Preservation Act, 1900. Copy of report is annexed as ANNEXURE R-1 (colly).

5. That as per report dated 15.09.2017 received from Tehsildar Manesar, Gurugram vide letter No.859/O.K. dated 15.09.2017, the Khasra Number 2342 min (30 Bigha 17 Biswa) is owned by Gram Panchayat and adjacent to Village Abadi on Pucca Road and on this khasra number the Temple & Stadium has already been constructed and almost 2.5 acre (4 Bigha 0 Biswa) land is lying vacant on the spot. It is pertinent to mention here that there is a Government School adjacent to this khasra number 2342 and this khasra number is fit for residential plots and worth living. Copy of report dated 15.09.2017 is annexed as ANNEXURE R-2 (colly)."

In view of the above, the apprehension of the petitioner that the plot, which is being sought to be allotted to the petitioner is in the Forest area, is belied.

In the considered view of this Court, the order passed by this Court stands duly complied with.

The present contempt petition stands disposed of as having been rendered infructuous.

Rule issued against the respondent stands discharged."

Thereafter, Deputy Commissioner, Gurugram has passed the impugned order on 16.04.2019 in which he has specifically mentioned that the petitioners are not entitled/eligible for allotment of the plots and in this regard relied upon an inquiry report dated 15.04.2019 prepared by the District Development & Panchayat Officer, Gurugram in which some of the beneficiaries much less the petitioners are not found eligible because of multiple reasons i.e. encroachment on panchayat land, government jobs, already plot allotted etc.

Aggrieved against the said order, the present petition has been filed.

The petitioners have though challenged the order on the ground that earlier they were found eligible but now because of the inquiry report, their eligibility has been cancelled on the ground of favouritism but not a word has been said in the petition that they have

neither encroached upon any panchayat land, nor are in government jobs or have not been already allotted plots. The silence on the part of the petitioners in this regard speaks volume because had they not been in unauthorised possession of the panchayat land or in the government jobs or not been allotted plots then they would have definitely said so in the petition.

Thus, in view of the above, we do not find any error in the order of the learned Deputy Commissioner, Gurugram by which the eligibility of the petitioners has been cancelled. No other point has been raised.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

01.07.2019

Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No