

...Petitioner

Vs.

...Respondents

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DATE OF DECISION:07.05.2019

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

Present: Mr. Girish Agnihotri, Senior Advocate with

Mr. Vinod Bhardwaj &
Mr. Saurabh Gulia, Advocates
for the petitioners.

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

Mr. Lokesh Sinhal, Advocate
for HSVP/respondent.

MAHESH GROVER, J. (Oral)

This order will dispose of abovesaid five writ petitions as they are interconnected.

In these writ petitions, multifarious prayers have been made, out of which noticeable prayers we deem it appropriate to extract herebelow:-

“i) Issue of an appropriate writ, order or direction in the nature of mandamus directing the respondents to provide the facility of external development works in Sector 106(village Daultabad) of the Gurugram-Manesar Urban Complex for the Group Housing Colony over an area measuring 12.344 acres and the amenities contemplated under the External Development Works within a time bound manner.

iii) A writ in the nature of mandamus or such other appropriate writ, order or direction be issued directing the respondent authorities to refund the amount charged as external development charges along with interest to the petitioner and further directing the respondents to grant sanctions/renewals of zoning, building plans, renewal licenses and further not to stop any other work for want of EDC notwithstanding the payment of balance amount of EDC.

iv) A writ in the nature of mandamus or such other appropriate writ, order or direction be issued directing the respondent authorities to discharge the bank guarantee of the petitioner.”

The petitioners have stated with reference to the petitions that the following payments have been made by them to the State but yet no

development works have been undertaken:-

Installment No.	Reducing balance in lacs	Principal amount in lac	Interest in lacs	Total installments	Due date
1.	2637.38	263.74	0.00	263.74	28.07.2012
2.	2373.64	263.74	142.03	405.77	28.12.2012
3.	2109.90	263.74	126.25	389.99	28.06.2013
4.	1846.17	263.74	111.07	374.81	28.12.2013
5.	1582.43	263.74	94.69	358.42	28.06.2014
6.	1318.69	263.74	79.34	343.08	28.12.2014
7.	1054.95	263.74	63.12	326.86	28.06.2015
8.	791.21	263.74	47.60	311.34	28.12.2015
9.	527.48	263.74	31.74	295.47	28.06.2016
10	263.74	263.74	15.87	279.61	28.12.2016

However, amount of EDC/IDC was not deposited by the petitioner as per schedule.

The details of the payments made by the petitioner on account of EDC are as under:-

Date of payment	Paid amount(in lacs)
07.09.2012	270.00
05.10.2018	664.00

We had on 22.11.2018 while entering upon the petitions passed the following order:-

“Notice of motion for 08.02.2019.

Order of this Court dated 15.11.2017 passed by the Ist Division Bench has been brought to our notice where a question has been posted which is reproduced as below:-

“In additional to what is stated in the order dated 14.07.2017, respondent No.3 shall also state on affidavit the amount, if any, spent on EDC work in the Sector in which the petitioner's licence exists and total amount of EDC collected from the petitioner and others in respect of the said sector.”

Subsequently on 04.04.2019, the following order was passed:-

“Replies in all the petitions filed, in Court today, are taken on record and a copy thereof have been given to learned counsel for the petitioners.

Prayer has been made that the applications submitted by the petitioners are in process.

On a prior occasion we had granted liberty to the respondents to consider the applications of the petitioners regarding a statutory claim. Since no information about the fate of the application has been submitted by the respondents, we are of the opinion that the plea of the learned counsel for the petitioner seeking a direction for consideration of the applications is not misplaced.

While adjourning the matter to 07.05.2019 to enable the petitioners to go through the reply submitted by the respondents, we give directions to the respondents to grant consideration to the claim of the petitioners as expeditiously as possible preferably within a period of two weeks from today without insisting on any further demand considering the contentions of the petitioner raised that almost 99% of the demanded amount has already been satisfied.”

Evidently, the petitioners have been struggling for the development work since 2017 when the first order in their matter was passed by this Court. The respondents have not offered any sufficient/satisfactory reasons for not carrying out the development work and while not denying the facts have consistently referred to the payments yet to be made by the petitioners. They have also said somewhat with stubborn persistence that the matter is under consideration.

After hearing the learned counsel for the parties, we are of the opinion that these are issues which ordinarily ought to have been settled by now, considering that these are being raised by the petitioners since 2017

and more than 180 crores has been invested, it is not essential for the State to wait till the time entire payments have been made to initiate the development work for those who do not fructify overnight creating infrastructures takes time often years. Once the external development charges are demanded and paid substantially the State has to show concrete results by carrying out development works which may correspond to the kind of payments they have received. It cannot be expected of any person to keep on investing money without there being any tangible result to encourage him to invest more in any project.

We also do not feel that these petitions should be kept alive any further and therefore deem it appropriate to direct the State to carry out the development works forthwith and till the time the works are not completed they are restrained from demanding any further amount from the petitioners. We make this observation solely for the reason that amount of Rs.180 crores have remained locked with the respondents since 2013/14 and 5 years is an extra ordinary long time for retention of the amount without corresponding results.

Let the development works be carried out within a period of eight months from today.

Writ petitions are disposed of.

Once these directions are carried out, we give liberty to the respondents to make an application to this Court, if the petitioners are required to pay more amount but only after they have carried out sufficient development in the area. At this stage, the petitioners state that they have

paid in excess of the required amount. Be that as it may, the payment made by the petitioners would be subject to verification by the State after the completion of development works and parties are at liberty to exchange the accounts with each other.

All pending applications are also disposed of.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

07.05.2019

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