

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

CWP No.12595 of 2019
Date of Decision: 04.02.2020

Col. Rajeev Kumar Dhand

....Petitioner

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Ms. Richudeep Bajaj, Advocate, for
Mr. D.S.Punia, Advocate, for the petitioner.

Mr. P.P.Chahar, Deputy Advocate General, Haryana.

Mr. Rajesh K. Sheoran, Advocate, and
Mr. Sandeep Saini, Advocate, for respondent Nos.2 to 4.

KARAMJIT SINGH, J.

A writ in the nature of certiorari is prayed for to quash letter/order dated 19.09.2017 (Annexure P2), vide which the respondent-authority has cancelled the allotment of Plot No.1761, Sector 33 (Part I), Hisar, to the petitioner. And also a writ of mandamus, directing the authorities to grant interest on deposit in lieu of delayed possession.

The petitioner had applied for allotment of plot measuring 6 marlas in Sector 33 (Part I), Hisar, under Defence quota on the basis of the applications invited by Haryana Shehri Vikas Pradhikaran (HSVP) for allotment of residential plots in Sector 14 (Part II) and Sector 33 (Part I), Hisar, in 2013. At that time, the petitioner was serving as Lieutenant Colonel in the Indian Army. In the draw of lots, the petitioner was declared successful and Plot no.1761, Sector 33 (Part I), Hisar, measuring 6 marlas was allotted to him, vide allotment letter dated 28.11.2014 (Annexure P-1). However, the

authorities never gave physical possession of the said plot. Rather, vide

impugned letter (Annexure P-2), the allotment of the said plot was cancelled by the authorities and it was intimated to him that 10% amount deposited by the petitioner, along with his application, has been forfeited on the ground that he, being of the rank of Lieutenant Colonel in the Indian Army, was not entitled to allotment of plot having area lesser than 10 marlas. The said classification, on the basis of rank, is unreasonable and has been impugned through the present writ petition.

Notice of motion was issued, vide order dated 14.05.2019. However, reply to writ petition was not filed by the respondents.

We have heard learned counsel for the parties and gone through the record of the case file.

There is no dispute regarding the fact that at the relevant time, the petitioner was serving as Lieutenant Colonel in the Indian Army and he was allotted Plot no.1761, Sector 33 (Part I), Hisar, measuring 6 marlas, vide allotment letter dated 28.11.2014 (Annexure P-1), in the category of Defence quota. Subsequently, the said allotment was cancelled by the authorities, vide impugned letter dated 19.09.2017 (Annexure P-2), on the ground he, being Lieutenant Colonel, was not eligible for allotment of plot measuring 6 marlas under the Defence quota. It is the plea of the respondents that he, being a Commissioned Officer of the rank of Lieutenant Colonel, was eligible for allotment of 14 marlas or 10 marlas plot only. Learned counsel for the respondents referred to decision of this Court in **CWP No.6377 of 2016** titled '**Badan Singh Vs. State of Haryana and others**' decided on 27.04.2016. The facts of the said case are entirely different from that of the case in hand. In Badan Singh's case (supra), Non-Commissioned Officer applied for 14 marlas plot in Defence Category and he succeeded in the draw of lots and one plot was

earmarked for him by the authorities and lateron, he was declared ineligible. As per the policy, he was eligible only to seek allotment of 4 to 8 marlas plots and his allotment was cancelled. Allottee challenged the said order but the writ petition was dismissed by this Court.

The facts of the present case are vice versa. Here, Commissioned Officer of the rank of Lieutenant Colonel applied for the plot of lesser area than his entitlement. In **Ram Kishan Vs. State of Haryana and others, 2015 (8) R.C.R. (Civil) 35**, this Court held that said type of classification on the basis of rank of an officer is not reasonable.

The authorities considered the application of the petitioner and allotted him 6 marlas plot in Defence quota. In this case, the authorities were at fault, for which the petitioner cannot be victimised. So, the authorities are estopped to withdraw the allotment of Plot No.1761, Sector 33 (Part I), Hisar, in the name of the petitioner. We are of the view that the impugned letter/order dated 19.09.2017 (Annexure P-2) cannot be sustained.

In view of the above, the present writ petition is allowed. The impugned letter dated 19.09.2017 (Annexure P-2) is quashed. The plot in question, which had been allotted to the petitioner shall stand restored to him. He shall deposit the outstanding amount due from him, as per the terms and conditions of the allotment letter. However, it is made clear that this order is not to be considered as precedent, as the present writ petition has been decided on the basis of its own facts and circumstances.

(RAJAN GUPTA)
JUDGE

04.02.2020

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(KARAMJIT SINGH)
JUDGE