IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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1. **CWP No.16618 of 2014**

Smt. Kajal ....Petitioner

Versus

The State of Haryana and others .....Respondents

2. **CWP No.24108 of 2014**

Udai Bhan and others ....Petitioners

Versus

State of Haryana and others .....Respondents

3. **CWP No.26715 of 2014**

Smt. Santosh ....Petitioner

Versus

State of Haryana and others .....Respondents

4. **CWP No.1084 of 2015**

Sudesh Kumari ....Petitioner

Versus

State of Haryana and others .....Respondents

5. **CWP No.1091 of 2015**

Smt. Anita Goyal ....Petitioner

Versus

State of Haryana and others .....Respondents

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6. **CWP No.1733 of 2015**

Kamlesh ....Petitioner

Versus

State of Haryana and others .....Respondents

7. **CWP No.7541 of 2015**

Smt. Bala ....Petitioner

Versus

State of Haryana and others .....Respondents

8. **CWP No.11743 of 2015**

Santra and others ....Petitioners

Versus

State of Haryana and others .....Respondents

Date of Decision: 20.03.2020

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

Present: None for the petitioner. (In CWP No.16618-2014)

Mr. Sanjay Mittal, Advocate,
for the petitioners. (In CWP No.24108-2014)

Mr. V.K.Jindal, Senior Advocate, with
Ms. Stuti Goel, Advocate,
for the petitioner. (In CWP No.26715-2014)

Mr. Madan Gupta, Advocate,
for the petitioner. (In CWP No.1091-2015)

Mr. Chanderhas Yadav, Advocate,
for the petitioner. (In CWP No.1733-2015)

Mr. C.M.Munjal, Advocate,
for the petitioner. (In CWP No.7541-2015)

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Mr. Arun Yadav, Advocate,
for the petitioners. (In CWP No.1084 & 11743-2015)

Mr. Ankur Mittal, Additional Advocate General, Haryana,
for the respondents.

KARAMJIT SINGH, J.

This order shall dispose of all the above captioned writ petitions, as in all these cases, the question of fact and law, which arises broadly for consideration is same. By way of the present writ petitions, the petitioners seek to invoke jurisdiction of this Court under Article 226/227 of the Constitution of India, assailing notification under Section 4 of the Land Acquisition Act (hereinafter referred to as 'the Act') dated 07.07.2011 and notification under Section 6 of the Act dated 06.07.2012.

The brief facts of each case are as follows:-

CWP No.16618 of 2014

The case of the petitioner is that she is the co-owner in possession of the land measuring 1 Kanal 5 Marlas out of the land bearing Killa No.128//11/2/2(3K-12M), situated within the revenue estate of Village Jhajjar, Tehsil and District Jhajjar, which was purchased by her, vide sale deed dated 01.01.2010 for valuable consideration of Rs.18,90,000/-. She constructed her residential house and one shop in the said land in the same very year. Then, she started her business in the name and style of Jai Durge Marble House in the said premises. Lateron, she also constructed one godown and two other shops in the said land. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10,

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Jhajjar. On this, the petitioner filed objections before the competent authority to release her residential house along with three shops and one godown from the acquisition. The said construction was raised by her much prior to issuance of notification dated 07.07.2011. However, the objections raised by the petitioner were brushed aside without assigning any reason. The State Government issued notification dated 06.07.2012 under Section 6 of the Act. The petitioner has also challenged order dated 09.05.2014 passed by the Secretary-cum-Director General, Urban Estates Department, Haryana, vide which, the request of the petitioner for release of her land from acquisition was rejected, arbitrarily and in violation of the State Government polices dated 30.09.2007 and 24.01.2011.

It is also pleaded that the aforesaid notifications were not published in accordance with the mandatory provisions of law, as provided in Section 4 of the Act. The objections filed by the petitioner under Section 5A of the Act were not decided objectively by the Land Acquisition Collector (Respondent No.4). The petitioner was arbitrarily discriminated, while the constructed houses of the other similarly placed persons were released from the acquisition by the competent authority, as per the policies of the Government dated 30.09.2007 and 24.01.2011. Hence, there is challenge to aforesaid notifications and impugned order dated 09.05.2014 with further relief to direct the respondents to release the land and house/shops/godown of the petitioner from the aforesaid acquisition.

<u>CWP No.24108 of 2014</u>

The case of the petitioners is that petitioner Nos.1 to 6 are the

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owners in possession of land comprised in Khewat No.1515 Khata No.1739 Mustil No.94 Killa No.11/2(6-0) and 20/1(3-10), situated in Village Jhajjar. Petitioner No.3 is owner in possession of land comprised in Khewat No.3274, 3553, Khata No.3723, 4049, Mustil No.126, Killa No.14/5(1-12), 17/1/2(0-2), situated at Village Jhajjar, Tehsil and District Jhajjar. Petitioner Nos.7 and 8 are co-owners in possession of land bearing Khewat No.2958, Khatoni No.3215 Rectangle No.93 Killa No.25/1(4-4) and Khewat No.2960, Khatoni No.3385 Rectangle No.93, Killa No.25/2(4-13), situated at Kaccha Beri Road Near Radha Sawami Satsang Bhawan, Jhajjar, Tehsil and District Jhajjar, on the basis of sale deed dated 27.07.2010. The petitioners constructed their residential houses in the above said land. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10, Jhajjar. On this, petitioners filed objections before the competent authority to release their land from the acquisition. The aforesaid construction was raised by the petitioner much prior to issuance of notification dated 07.07.2011. However, the objections raised by the petitioners were rejected by the authorities without giving any reason. The State Government issued notification dated 06.07.2012 under Section 6 of the Act. The petitioners also gave representation to the State Government to release their land from acquisition but the same was declined, vide order dated 18.09.2014 by the Administrator, HUDA, Rohtak. The petitioners have challenged both the above said notifications and order dated 18.09.2014.

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CWP No.26715 of 2014

The case of the petitioner is that she is the owner in possession of Khewat No.4261/3992, Khata No.4825, Rectangle No.93, Killa No.8(4-16), which was purchased by her, vide sale deed dated 03.06.1996. She constructed her residential house. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10, Jhajjar. On this, petitioner filed objections before the competent authority to release her land from the acquisition. The said construction was raised by her much prior to issuance of notification dated 07.07.2011. However, the objections raised by the petitioner were rejected by the concerned authority without assigning any reason. The State Government issued notification under Section 6 of the Act dated 06.07.2012. The State Government also issued notice dated 28.05.2014 under Section 9 of the Act.

It is pleaded that the aforesaid notification was not published in accordance with the mandatory provisions of law, as provided in Section 4 of the Act. The objections filed by the petitioner under Section 5A of the Act were not decided objectively by the Land Acquisition Collector (Respondent No.4). The petitioner was arbitrarily discriminated, while the constructed houses of the other similarly placed persons were released from the acquisition by the competent authority, as per the policies of the Government dated 30.09.2007 and 24.01.2011. Hence, there is challenge to aforesaid two notifications and notice, with further relief to direct the respondents to release the land and house of the petitioner from the aforesaid acquisition.

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CWP No.1084 of 2015

The case of the petitioner is that she is the co-owner in possession of the land comprised in Khewat No.4594 min, Khatoni No.5280, Rectangle No.116, Killa No.7/1(3-2), Khewat No.3482 min, Khatoni No.4011 min, Rectangle No.116, Killa No.6/3(1-1), 7/2(4-4), 15/1(2-3), situated near Preet Cinema within the municipal limits of Jhajjar, which was purchased by her, vide sale deed dated 19.11.2009 for consideration of Rs.7,46,000/-. The residential house of the petitioner is there in the aforesaid land. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10, Jhajjar. On this, the petitioner filed objections before the competent authority on 04.08.2011 to release her residential house from the acquisition. The said house was constructed by her much prior to issuance of notification dated 07.07.2011. However, the objections raised by the petitioner were declined by the concerned authority without assigning any reason. The State Government issued notification dated 06.07.2012 under Section 6 of the Act.

It is pleaded that the aforesaid notifications were not published in accordance with the mandatory provisions of law, as provided in Section 4 of the Act. The objections filed by the petitioner under Section 5A of the Act were not decided objectively by the Land Acquisition Collector (Respondent No.4). The petitioner was arbitrarily discriminated, while the constructed houses of the other similarly placed persons were released from the acquisition by the competent authority, as per the policies of the Government dated

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30.09.2007 and 24.01.2011. Hence, there is challenge to both the aforesaid notifications, with further relief to direct the respondents to release the land and house of the petitioner from the aforesaid acquisition.

CWP No.1091 of 2015

The case of the petitioner is that she is the co-owner in possession of 60/81 share out of land comprised in Khewat No.3156, Khatoni No.3643 Rectangle No.116 Killa No.8/2/2(1-9), 9/1(3-2), 19(1-14), situated at Rohtak Road, Jhajjar, which was purchased by her, vide sale deed dated 04.06.2007 for consideration of Rs.5,41,000/-. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10, Jhajjar. On this, the petitioner filed objections before the competent authority, on 04.08.2011 to release her land from the acquisition. However, the objections raised by the petitioner were declined by the concerned authority without giving any reason. The State Government issued notification dated 06.07.2012 under Section 6 of the Act.

It is pleaded that the aforesaid notifications were not published in accordance with the mandatory provisions of law, as provided in Section 4 of the Act. The objections filed by the petitioner under Section 5A of the Act were not decided objectively by the Land Acquisition Collector (Respondent No.4). The petitioner was arbitrarily discriminated, while the constructed houses of the other similarly placed persons were released from the acquisition by the competent authority, as per the policies of the Government dated 30.09.2007 and 24.01.2011. The petitioner also gave representation to the

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State Government for release of her land from acquisition but the same was illegally declined by the Secretary-cum-Director General, Urban Estates Department, Haryana, on 08.08.2014. Hence, there is challenge to both the above-said notifications and order dated 08.08.2014, with further relief to direct the respondents to release the land and house of the petitioner from the aforesaid acquisition.

CWP No.1733 of 2015

The case of the petitioner is that she is the co-owner in possession of land comprised in Khewat No.443 N, Khatoni No.3573 min, Rectangle No.111, Killa No.8/1 (1-17), 13/1 (4-4), 13/2 (0-2) and 13/3 (1-12), situated in the revenue estate of Jhajjar. Petitioner constructed residential house and planted trees in the above mentioned land. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10, Jhajjar. On this, the petitioner filed objections before the competent authority, on 26.07.2011 to release her residential house and planted trees from the acquisition. The said house was constructed by her much prior to issuance of notification dated 07.07.2011. However, the objections raised by the petitioner were declined by the concerned authority without assigning any reason. The State Government issued notification dated 06.07.2012 under Section 6 of the Act.

It is pleaded that the aforesaid notifications were not published in accordance with the mandatory provisions of law, as provided in Section 4 of the Act. The objections filed by the petitioner under Section 5A of the Act

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were not decided objectively by the Land Acquisition Collector (Respondent No.4). The petitioner was arbitrarily discriminated, while the constructed house of the other similarly placed persons were released from the acquisition by the competent authority, as per the policies of the Government dated 30.09.2007 and 24.01.2011. The request of the petitioner for release of her acquired land was illegally rejected by the Secretary-cum-Director General, Urban Estates Department, Haryana, on 09.05.2014. Hence, there is challenge to both the aforesaid notifications and order dated 09.05.2014, with further relief to direct the respondents to release the land and house of the petitioner from the aforesaid acquisition.

CWP No.7541 of 2015

The case of the petitioner is that she is the co-owner in possession of land measuring 09 Marlas comprised in Khewat No.242 M, Khata No.2895 M, Rectangle No.93, Killa No.17/1(3-12) and land measuring 9 Marlas comprised in Khewat No.3462 M, Khata No.407 M, Rectangle No.94, Killa No.23/2(4-19), which she purchased vide registered sale deed dated 23.05.2007 for a consideration of Rs.12,50,000/-. Petitioner constructed residential house in the above mentioned land. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10, Jhajjar. On this, the petitioner filed objections before the competent authority to release her residential house from the acquisition. The said house was constructed by her much prior to issuance of notification dated 07.07.2014. However, the objections raised by the petitioner were declined by the

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concerned authority without assigning any reason. The State Government issued notification dated 06.07.2012 under Section 6 of the Act. The State Government also issued notice dated 28.05.2014 under Section 9 of the Act.

It is pleaded that the aforesaid notifications were not published in accordance with the mandatory provisions of law, as provided in Section 4 of the Act. The objections filed by the petitioner under Section 5A of the Act were not decided objectively by the Land Acquisition Collector (Respondent No.4). The petitioner was arbitrarily discriminated, while the constructed house of the other similarly placed persons were released from the acquisition by the competent authority, as per the policies of the Government dated 30.09.2007 and 24.01.2011. Hence, there is challenge to both the aforesaid notifications and notice dated 28.05.2014, with further relief to direct the respondents to release the land and house of the petitioner from the aforesaid acquisition.

CWP No.11743 of 2015

The case of the petitioners is that petitioner No.1-Smt. Santra is the co-owner in possession of the land comprised in Khewat No.2750, Khata No.3189, Mustil No.93, Killa No.25/2(4-13), and land comprised in Khewat No.3919, Khata No.4496, Mustil No.116, Killa No.5(6-14), situated within the municipal limits of Jhajjar, which was purchased by her, vide sale deed dated 07.03.2008. Petitioner Nos.2, 3 and 4 purchased share out of the land comprised in Khewat No.2423 min, 2424 min, Khata No.2894 min, 2905 min, Mustil No.93, Killa No.6/3(4-0), 7/2(5-3), 17/1(3-12), vide sale deed dated 08.09.1999. Petitioner No.5 purchased share out of Khewat No.2423 min, 346

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min, Rectangle No.93, 94, Killa No.6/3(4-6), 7/2(5-3), 20/2(4-19), vide sale deed dated 29.03.2010. Petitioner No.6 purchased share out of land comprised in Khewat No.2676/2484, Khatoni No.380, Mustil No.116, Killa No.27(3-6). Petitioner No.7 purchased 7/227 share out of land comprised in Khewat No.2527, Khatoni No.2989, Rectangle No.93, Killa No.25/2 (4-13), Khewat No.3607, Khatoni No.4217, Rectangle No.116, Killa No.5(6-14), situated at Ward No.1 Jhajjar, Tehsil and District Jhajjar, vide registered sale deed dated 03.09.1999. Petitioner No.8 purchased share out of land comprised in Khewat No.4180/3922 Khatoni No.4739, Rectangle No.115, Killa No.11(2-12), Rectangle 116 Killa No.15/2(2-5), situated at Ward No.1 Jhajjar, Tehsil and District Jhajjar, vide registered sale deed dated 03.09.1999. The State Government issued notification under Section 4 of the Act dated 07.07.2011 for the acquisition of the land including the aforesaid land, for the purpose of development and utilization of residential Sector 10, Jhajjar. On this, petitioner Nos.5 to 8 filed objections before the competent authority to release their land from the acquisition, whereas petitioner Nos.1 to 4 could not file their objections as they were not aware of the aforesaid notification. The petitioners raised construction in the aforesaid land much prior to issuance of notification dated 07.07.2011. However, the objections raised by the petitioners were declined by the concerned authority without giving any reason. The State Government issued notification dated 06.07.2012 under Section 6 of the Act. The petitioner has also challenged Award dated 04.07.2014 and order dated 28.02.2015 passed by the Land Acquisition Collector, Rohtak.

In all the writ petitions, contesting respondents filed joint written

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statements, in which, it was pleaded that the land in question along with other land was acquired for the public purpose, namely, for institutional and partly commercial, road widening and green belt of Sector 10, Jhajjar, in accordance with the provisions of the Act. The petitioner(s) was/were given an opportunity to file objections under Section 5A of the Act and they filed the objections and thereafter, opportunity of hearing was given to them on 29.09.2011/30.09.2011. The Government, after considering the objections raised by the petitioners and report of the Land Acquisition Collector, decided to acquire the land/structures belonging to the petitioners, which were falling under the area of road/green belt. It was also pleaded that the land in question was already notified as controlled area under Section 4(1)(a) of the Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963 (hereinafter referred to as 'the Act of 1963'). The aforesaid constructions were raised by the petitioners in violation of the provisions of the Act of 1963. It was further pleaded that the petitioners have claimed release of their land from acquisition on the ground that the land/structures of some other land owners had already been released. The case of the petitioners is not covered under the policy dated 24.01.2011, as the site in dispute is falling in road widening of Jhajjar-Sampla scheduled road and 30 meters wide green belt. So, the petitioners cannot claim any parity. In CWP No.26715 of 2014, it was pleaded that after re-survey, it was decided to provide one plot to the petitioner. It was pleaded that the writ petitions deserve to be dismissed.

We have heard learned counsel for the parties and also gone

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through the record.

Learned counsel for the petitioners, while challenging the impugned notifications and orders, contended that residential houses were constructed by the petitioners in the land in dispute even prior to the issuance of notification under Section 4 of the Act. The said construction was raised by the petitioners, in lawful manner. The objections filed by the petitioners under Section 5A of the Act were ignored by the Land Acquisition Collector, without giving any reason. It is further contended that the lands/structures of some other similarly situated persons were released from attachment, as is evident from order dated 18.03.2014 passed by respondent No.2, while the similar request made by the petitioners was declined by the said respondent, vide order dated 09.05.2014. The case of the petitioners for release of their land from acquisition is also covered under the State Government policies dated 30.09.2007 and 24.01.2011.

Learned counsel for the petitioners further contended that the constructed portions of the houses of the petitioners deserve to be released from acquisition in consonance with the aforesaid Government polices dated 30.09.2007 and 24.01.2011. In this context, learned counsel for the petitioners referred to **Sukhdev Singh and others Vs. The State of Haryana and others, 2013(41) R.C.R (Civil) 256 (P&H),** wherein, direction was given to the State Government to conduct a fresh survey/demarcation of constructed portions of the petitioners' residential houses and besides releasing their constructed portion/houses, equivalent amount of open space was also directed to be released to enable them to enjoy their residential properties. Learned counsel

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for the petitioners also referred to **CWP Nos.14006, 24033 and 25737 of 2013 (O&M)** titled as **Devdutt and others Vs. State of Haryana and others** decided on 10.01.2014 and **CWP No.10781 of 2018** titled as **Azad Singh Duhan Vs. State of Haryana and others** decided on 11.09.2019, in support of his arguments.

On the other hand, learned counsel for the contesting respondents submitted that the lands of the petitioners were lying vacant and the alleged constructions were raised by the petitioners after issuance of notification under Section 4 of the Act. It is further contended that the constructed portion of the alleged residential houses of the petitioners are required for the purpose for which the land has been acquired. It is further contended that the respondents have not acted in arbitrary manner as alleged by the petitioners. The cases of the petitioners are entirely different from that of the persons whose land has been released from acquisition. It is further contended that the alleged construction was raised by the petitioners in violation of the provisions of the Act of 1963 and, as such, they cannot be granted any relief. In this regard, learned counsel for the respondents referred to decision dated 05.04.2011 passed by this Court in **CWP No.7711 of 2009** titled as **New Vidya Niketan Educational Society Vs. The State of Haryana and others** of this Court, which was affirmed by the Hon'ble Apex Court in **SLP No.13348 of 2012** decided on 10.05.2012. Learned counsel for the respondents further contended that all the writ petitions deserve to be dismissed.

We have considered the submissions made by the learned counsel for the parties.

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The undisputed facts, which remains uncontroverted, are that the State Government issued notification dated 07.07.2011 under Section 4 of the Act for the acquisition of the land, including the land of the petitioners, for the purpose of development of institutional and partly commercial, road widening and green belt of Sector 10, Jhajjar. Most of the petitioners filed objections under Section 5A of the Act but the same were rejected by the concerned authority. Thereafter, notification dated 06.07.2012 under Section 6 of the Act was issued by the State Government and finally, Award was passed on 04.07.2014.

In the present writ petition, petitioners have failed to establish that the notifications under Sections 4 and 6 of the Act were not issued, in accordance with the provisions of law.

In all the writ petitions, the petitioners have taken specific plea that the construction, if any, was already existing at the spot prior to issuance of notification under Section 4 of the Act. The petitioners have tried to take the benefit of State Government policies dated 30.09.2007 and 24.01.2011 regarding release of land/houses from acquisition. The policy dated 30.09.2007 was superseded by another policy dated 26.10.2007 and finally, policy dated 24.01.2011 was formulated by the State Government in that regard. As per policy dated 24.01.2011, only those requests for release of land from acquisition are to be considered by the State Government under Section 5A of the Act, where structures were constructed prior to issuance of notification under Section 4 of the Act and they are inhabited and used by the owner for his residence. The policy was also applicable to any factory or any

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commercial establishment, which existed and was functional prior to notification under Section 4 of the Act and was also functional at the moment. The policy also covered any religious institution or any building owned by community, which is being used for community purposes.

The contesting respondents have specifically pleaded in their written statements that the aforesaid construction was raised by the petitioners in violation of the provisions of the Act of 1963, it being notified as 'Controlled Area' under the said Act. This fact has not been controverted by the learned counsel for the petitioners during the arguments. Even, no rejoinder was filed by the petitioners to refute the said plea taken by the respondents. Meaning thereby, construction raised by the petitioners was illegal. No change of land use, certificate was taken by the petitioners before raising the aforesaid construction. It is settled proposition that a law breaker cannot be permitted to get any relief from the Court by performing an act contrary to the provisions of law, as has been held by this Court in *New Vidya Niketan Educational Society Vs. The State of Haryana and others (supra),* which has been relied upon by the learned counsel for the contesting respondents. It is also settled proposition that a person, who seeks equity must do equity. Also one cannot be permitted to take advantage of its own wrong. So, the petitioners cannot take the benefit of policy dated 24.01.2011.

It is also plea of the petitioners that they were discriminated as the constructed area of the other similarly situated persons was released from acquisition while, the similar requests made by the petitioners were declined. Learned counsel for the petitioners referred to order dated 18.03.2014 passed

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by the Director General, Urban Estates, Haryana, Panchkula, with regard to release of property of Bal Vidhya Mandir Shikshya Samiti, Yashpal and Radha Swami Satsang. The case of the land of Radha Swami Satsang is covered under the policy of State Government dated 24.01.2011, it being a religious institution. In case of Bal Vidhya Mandir Shikshya Samiti, the school was having about 350 students and its owner had agreed to forgo land of school required for widening of the road. Even, Yashpal agreed to leave the land required for the purpose of road widening and green belt. The case of the petitioners was not same as that of the above said persons/institutions as the construction raised by the petitioners was illegal and even otherwise, their land/constructed portion was required by the Government for widening of the road and green belt. In the light of the above, the petitioners have failed to prove the plea of discrimination. The case law referred by the learned counsel for the petitioners is not applicable to the facts and circumstances of the present writ petitions.

Consequently, all these writ petitions are hereby dismissed, being bereft of merit.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

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Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No

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