

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

CWP No.9242 of 2021 (O&M)

Date of Decision:10.08.2021

Gurmukh Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VIVEK PURI**

Present:- Ms. Shivya Sehgal, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J. (Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Instant writ petition has been filed seeking a mandamus for directing the respondent authorities under the State of Punjab to allot to the petitioner a plot under the Oustee Category under the provisions of the oustee policy dated 17.04.1974 (Annexure P-2) in the light of various representations moved by late Sh. Avtar Singh as well as the present petitioner.

It has been averred that Late Sh. Avtar Singh son of Sardara Singh son of Partap Singh resident of Village Dugri was owner of land measuring 2B-2B-7B to the extent of 3/4th share falling in Khewat no.333, Khatouni No.416, Khasra No.635, 636 as per jamabandi for the year 1975-1976. Shri Avtar Singh was also owner of land measuring 5B-2B-5B

comprised in Khewat No.329, Khatouni No.412, Khasra No.209, 210, 211, 213, 214 as per jamabandi for the year 1975-1976. the above two parcels of land were situated in Village Dugri, Hadbast No.277, Tehsil and District Ludhiana.

The afore-noticed land was acquired in the year 1975 for developing residential Urban Estate, Ludhiana.

The State of Punjab notified a policy dated 17.04.1974 providing that all oustees whose land has been acquired for the purpose of setting up of a residential estate shall be considered for allotment of plots under the Oustee Category.

Counsel submits that Sh. Avtar Singh, died on 23.03.1998. During his lifetime he had submitted an application for allotment of plot under the Oustee category on 20.05.1981 under the oustee policy dated 17.04.1974. Thereafter a representation had also been made on 04.03.1993. Prior to his death Avtar Singh had executed a registered Will dated 02.08.1994, in favour of the present petitioner and thus the petitioner after the demise of Sh. Avtar Singh, had been pursuing the claim for allotment of a plot in the oustee category being a legal representative. It is asserted that till date the claim of late Sh. Avtar Singh as also of the present petitioner in the capacity of a legal representative has not been finalized.

Counsel has vehemently argued that late Sh. Avtar Singh had a vested right for consideration for allotment of a plot under the Oustee policy dated 17.04.1974. The claim had been put forth by Sh. Avtar Singh during his lifetime and after his death the present petitioner has filed numerous representations between the years 2001 to 2020 and inspite

thereof no response has been evoked. Action is stated to be patently unfair and arbitrary.

Counsel has placed heavy reliance upon order dated 05.12.2019 passed by a Co-ordinate Bench in ***CWP No.35316 of 2019 (Harminster Singh Vs. State of Punjab and ors.)*** to contend that in a similar fact situation, this Court had directed the authorities concerned to decide the representation of the petitioner therein for allotment of a oustee quota plot. Counsel submits that she would be confining the scope of the instant writ petition as regards issuance of directions to the competent authority for deciding the representation (s) that had been submitted by the present petitioner.

Having heard counsel at length and having perused the pleadings on record we are of the considered view that no intervention in the matter is warranted as a belated claim is sought to be raised.

It is the case of the petitioner himself that the land owned by Sh. Avtar Singh (since deceased) was acquired way back in the year 1975. An application for allotment of a plot under the Oustee category is stated to have been submitted by Avtar Singh (since deceased) in the year 1981. He died on 23.03.1998. Even if the averments made in the petition are accepted at their face value, Avtar Singh (since deceased) apart from having submitted an application for allotment of a plot under the oustee category in the year 1981 and followed by a representation in the year 1993 did not take legal recourse during his lifetime and over a period of 23 years inspite of his claim having not been accepted.

After death of Avtar Singh in the year 1998, the present petitioner is stated to have been pursuing the matter in the capacity of a

legal representative. For the past more than 20 years present petitioner is also stated to have made repeated representations.

In other words the instant petition has been filed in the year 2021 after a period of almost 45 years from the date of acquisition of land seeking a mandamus for allotment of a plot under a Oustee quota policy dated 17.04.1974 (Annexure P-2). It is the pleaded case of the petitioner himself that such policy thereafter stands substituted by many subsequent policies.

There is no justification coming forth to explain such inordinate delay in having approached this Court and invoking the extraordinary writ jurisdiction under Article 226 of the Constitution of India.

Petitioner cannot gain any mileage from the order dated 05.12.2019 that was passed by the Co-ordinate Bench in CWP No.35316 of 2019 at Annexure P-13. Such order would not be viewed as a judicial precedent. In any case such order directing the concerned authorities to decide a representation of the petitioner therein cannot be read to mean that the aspect of delay if any in that matter had not condoned.

We find that the instant writ petition raises a highly belated claim and the writ petition filed after a period of almost 45 years suffers from gross delay and latches. ***In State of Uttranchal and another vs. Sri Shiv Charan Singh Bhandari and others (2013) 6 SLR 629***, the Honourable Supreme Court had opined that repeated representations will not keep an issue alive. It was further observed that a stale or a dead issue cannot be got revived even if such a representation has been decided by the authorities or got decided by getting a direction from the Court as the issue

regarding delay and latches is to be decided with the reference to the original cause of action and not with reference to any such order that may have been passed.

In view of the discussion hereinabove, we are not inclined to accept the prayer made in the instant petition.

Writ petition is dismissed in limine.

(TEJINDER SINGH DHINDSA)
JUDGE

(VIVEK PURI)
JUDGE

August 10, 2021

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No