

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
CWP No.11899 of 2021 (O&M)
Date of Decision:07.07.2021**

Sube Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

2.

**CWP No.11940 of 2021 (O&M)
Date of Decision:07.07.2021**

Pardeep Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

3.

**CWP No.11943 of 2021 (O&M)
Date of Decision:07.07.2021**

Lalit Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present:- Mr. Ajay Jain, Advocate for the petitioner(s).

Mr. Sandeep Moudgil, Addl. A.G. Haryana.

Mr. B.R. Mahajan, Sr. Advocate with
Ms. Nikita Goel, Advocate for respondents No.2 to 4
in all the petitions.

TEJINDER SINGH DHINDSA J. (oral)

This order shall dispose of CWP No.11899 of 2021 titled as

Sube Singh Vs. State of Haryana and others, CWP No.11940 of 2021

titled as Pardeep Kumar Vs. State of Haryana and others and CWP No.11943 of 2021 titled as Lalit Kumar Vs. State of Haryana and others as the issue involved in these writ petitions is identical.

Petitioners in these three connected petitions were allotted plots in the New Vegetable Market, Hisar by the Haryana State Agriculture Marketing Board in open auction and allotments letters were issued in the year 2015. 25% price of the plots in questions was deposited up-front. Remaining amount was to be paid either without interest within 60 days from the date of issuance of the allotment letter or in six half yearly installments with 15% interest. Concededly petitioners have defaulted in deposit of the balance installments.

Present petitions have been filed being aggrieved of the action of the respondent-Board in not having acceded to the request of the petitioners to extend the time for deposit of the outstanding installment amount(s) under the **Vivadon Ka Samadhan Scheme** (hereinafter to be referred to the Scheme). A declaration is sought that the time frame stipulated in the Scheme to make the payment of the remaining/balance amount is arbitrary and whimsical. Furthermore, a writ of mandamus is sought directing the respondent-Board to permit the petitioners to deposit the outstanding amount by extending the last date stipulated under the Scheme.

Counsel representing the petitioners has submitted that the State Government had launched the scheme on 1st of April 2021 to settle the arrears and old disputes of allottees of shops/booths/plots in various mandis across the State. As per the Scheme penal interest on the outstanding installments was to be waived off and even 40% of the total

interest outstanding as on the date of the first deposit was to be waived off. The closing date to avail benefit of the scheme was stipulated as 15.06.2021. It has been argued that the petitioners for the first time became aware of the Scheme on receipt of a notice dated 22.05.2021 calling upon them to deposit the outstanding amount. Contention raised is that the time period stipulated in the scheme carrying a closing date of 15th of June 2021 cannot in any manner be said to be reasonable. Further asserted that the current Covid situation has also not been taken into account by the competent authority while fixing the closing date under the Scheme as 15th of June 2021.

Since advance copies of the writ petitions had been served upon the respondents, Mr. Baldev Raj Mahajan, Senior Advocate, has joined proceedings to assist this Court. We have been informed that the Scheme had been put in public domain and the same was published in the month of April 2021 itself in one English Newspaper i.e. The Tribune and two Hindi Newspapers i.e. Dainik Bhaskar and Dainik Jagran having circulation in the State of Haryana as also in Chandigarh. Apart from the scheme having been published in the press, learned Senior counsel would submit that individual notices had also been served upon the allottees in question. We have also been apprised that the closing date under the scheme now stands extended upto 15.07.2021.

We have heard counsel at length and have perused the pleading on record.

The Scheme was launched w.e.f. 01.04.2021 with a clear objective to settle the arrears and old disputes of such allottees who have failed to deposit the installments, interest, penal interest, extension fee or

have failed to construct their shops/booths within the stipulated period or those who failed to get their completion certificates. Insofar as the petitioners herein are concerned and who are defaulters as regards deposit of the installment amount, the relevant provisions under the Scheme would read as under:-

A. For the allottees who are in default of Installments:-

(i) A last opportunity is hereby offered to the allottees who have constructed their shops/booths but have failed to deposit the installments within the stipulated time.

(ii) The outstanding penal interest on the installments will be waived off.

(iii) 40% of total interest outstanding as on the date of 1st deposit, will also be waived off.

(iv) The allottee will be required to deposit the outstanding dues as per the scheme till 15.06.2021 either in lump sum or through part payments.

(v) Only such defaulter allottees will be eligible under this scheme whose allotments of plots were made on or before resumed than the scheme will be applicable only in those cases where the Appeal against such resumption is pending before a Court/Appellate Authority or other Forum since 06.10.2020 or earlier than that date.”

We would view the Scheme in the nature of a policy decision taken by the State Government, not in terms of vesting any right in the defaulting allottees/petitioners but in the nature of a concession.

It is well settled that the Courts in exercise of their power of judicial review do not ordinarily interfere with the policy decision of the executive unless the policy can be faulted on the grounds of mala fides, unreasonableness, arbitrariness, unfairness and being perverse. While exercising the power of judicial review, this Court under Article 226 of the Constitution of India is not to act as an appellate authority. Ordinarily policy decisions ought to be left to the Government and while assessing the propriety of a policy decision taken by the State the Court cannot interfere even if a second view is possible.

In the facts of the present case we fail to comprehend as to how the petitioners are claiming the closing date stipulated in the Scheme to be arbitrary and whimsical. Even though it has been pleaded in the petition that the petitioners became aware of the Scheme only upon receipt of notices dated 22.05.2021, yet counsel for the petitioners has not been able to rebut the information supplied by the learned Advocate General, State of Haryana, that the Scheme was duly published in the newspapers in the month of April 2021 itself. The submission seeking extension of time on the basis of current Covid situation is also not well founded. Petitioners herein were issued allotment letters in the month of December 2015. 25% of the price of the plot was paid initially and the balance was to be paid in six half yearly installments. In other words the default period with regard to deposit of the installments ranges from 2016 till December 2018 i.e. much prior to the onset of the Covid-19 pandemic.

Essentially the petitioners are wanting this court to read a further “**Concession**” in a “**Concessional Scheme**” already framed by the State Government. We are unable to accept such prayer. Even otherwise

the time frame as envisaged under the original scheme i.e. upto 15.06.2021
already stand extended upto 15.07.2021.

In view of the afore-going discussion, we do not find any
basis that would warrant interference in these petitions.

Dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

(VIVEK PURI)
JUDGE

July 07, 2021

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No