

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

**CWP-10518-2018 (O&M)
Date of Decision: 07.12.2022**

**GURCHARAN SINGH AND OTHERS
Versus**

..... Petitioner(s)

STATE OF PUNJAB AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Nandan Jindal, Advocate
for the petitioners.

Mr. Sandeep Jain, Additional A.G. Punjab
for respondents no.1 to 5.

Mr. J.S. Bhandohal, Advocate
for respondent no.6-Gram Panchayat.

None for respondents no.7 to 10.

LISA GILL, J.

Prayer in this writ petition is for setting aside letter dated 27.11.2017 (Annexure P-16) and letter/order dated 01.01.2018 (Annexure P-17), passed by respondent no.4-the District Development and Panchayat Officer, Patiala, whereby allotment of plots measuring 05 Marlas to the petitioners has been cancelled. It is further prayed that the official respondents be directed not to proceed or take any adverse action in the proceedings under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 1961 Act), which were consequently initiated against the petitioners.

Learned counsel for the petitioners submits that petitioners who belong to the poor strata of society as well as the Scheduled Caste and Backward Class community, did not have any land or residential houses in

terms of the Scheme dated 17.04.2001, Annexure P-1 (Colly) floated by the respondent-State. A Committee was constituted for selecting eligible persons for allotment at the district level. Resolution dated 24.06.2010 (Annexure P-3) was passed by the Gram Panchayat for allotment of plots measuring 5 Marlas to the poor villagers. Forty six persons were found eligible for allotment. Due verification was carried out by the authorities. Resolution dated 09.11.2011 (Annexure P-7) was passed by the respondent-Gram Panchayat wherein forty four persons were named to be eligible beneficiaries. Detailed enquiry was then conducted by the Committee constituted as per policy under the Chairmanship of SDM, Nabha. Forty five persons were found eligible as per Recommendations dated 21.12.2011 (Annexure P-8). It is submitted that detailed inquiries were thereafter again conducted and finally vide order dated 01.11.2016 (Annexure P-10), plots measuring 5 Marlas were allotted to forty two persons including the present thirty nine petitioners. Sanads (Annexure P11 - Colly) were issued to the said forty two eligible persons and possession of plots handed over to them.

Learned counsel for the petitioners submits that some of the villagers in the meantime had filed a suit for permanent injunction in 2011 for restraining the authorities from carving out any plot or allotment of the same to any allottee in the different Khasra numbers including Khasra Nos.25//21, 22 and 23, in which plots were allotted to the petitioners. Order dated 29.04.2015 (Annexure P-12) had been passed by the learned Civil Judge (Jr. Division), Nabha, directing status quo to be maintained till final disposal of the said suit. Copy of this order, it is stated was however not received by the authorities prior to allotment of the plots to the petitioners.

After allotment and handing over of possession of the plots to the allottees, the private respondents filed a Contempt Petition on 10.05.2016 (Annexure P-13) under Order 39 Rule 2-A CPC for punishment of the respondents therein for willful violation and disobeying order dated 29.04.2015 in as much as plots in question had been allotted despite there being an order of status quo to be maintained in respect to the land in question. At the same time, said private respondents impleaded some of the petitioners as party to the Civil Suit as well. Notice in the petition under Order 39 Rule 2-A CPC was issued to the BDPO, Nabha. Reacting to the same, an enquiry was marked into the allotment of said plots measuring 5 Marlas. Cancellation of allotment of the plots to the petitioners and others was directed only on the basis of status quo order having been passed. Cancellation was recommended by the Additional Deputy Commissioner, Patiala vide impugned order/enquiry report dated 27.11.2017 (Annexure P-16). Thereafter, while considering communication dated 27.11.2017, approval for cancellation of the plots measuring 5 Marlas was given vide impugned order/letter dated 01.01.2018 (Annexure P-17).

Learned counsel for the petitioners submits that cancellation of allotment is merely a knee jerk reaction on the part of the authorities on receipt of notice in the contempt petition and is wholly unsustainable. The impugned decision of cancellation of allotment has been taken by the authorities without even as-much as a show cause notice to the petitioners, who fulfill all the eligibility conditions for allotment as per provisions of law as well as the Scheme in question. None of the petitioners, it is submitted, own any other residential house. Furthermore, civil suit filed by the private respondents in which the interim order was granted was

dismissed on 14.07.2017 (Annexure P-15) and appeal filed against the said judgment by the learned trial Court has also been dismissed on 14.11.2019.

Furthermore, the the Collector (Panchayat Land)/DDPO, Patiala, it is submitted has wrongly proceeded to allow the petition under Section 7 of the 1961 Act, filed by the Gram Panchayat on 09.07.2018 (Annexure P-20). The very basis or the premise on which cancellation of allotment has been carried out, is no longer in existence, therefore, present writ petition, it is prayed should be allowed and allotment of plots measuring 5 Marlas in favour of the petitioners be maintained.

Learned counsel for the respondents are unable to deny that allotment of plots measuring 5 Marlas to the petitioners was made subsequent to proper and due enquiry and after verifying eligibility of all the petitioners. It is further not denied that the action of cancellation of allotment of plots to the petitioners was taken solely in view of order dated 29.04.2015, passed by learned Civil Judge (Jr. Division), Nabha, directing status quo to be maintained and said action was admittedly taken after receipt of the notice in the contempt petition filed by the private respondents. Learned counsel for the respondents-State as well as respondent no.6-Gram Panchayat do not deny that all the petitioners are otherwise eligible for allotment of the plots, possession of which was duly handed over to them in the year 2016.

In the given factual matrix, in our considered opinion cancellation of allotment of plots measuring 5 Marlas on the sole ground as detailed above in spite of the petitioners being eligible for allotment, is not sustainable especially keeping in view the fact that civil suit filed by the private respondents stands dismissed and appeal against the order of dismissal of civil suit has also been dismissed in default on 14.11.2019.

Accordingly, communication dated 27.11.2017 (Annexure P-16) as well as communication/order dated 01.01.2018 (Annexure P-17), passed by respondent no.4-the District Development and Panchayat Officer, Patiala, are set aside and allotment of plots measuring 5 marlas to the petitioners is upheld. Consequently, there is no question of ejectment of petitioners in terms of order dated 09.07.2018, passed in the petition under Section 7 of the 1961 Act, filed by the Gram Panchayat. Appeal filed by the petitioners challenging order dated 09.07.2018 (Annexure P-20) is stated to be pending. Appellate authority is directed to pass appropriate orders in view of the decision in this writ petition.

It is, however, clarified that this order shall not be construed to bind the hands of the official respondents in proceeding against any of the petitioners in accordance with law, in case, they are found to be in violation of the provisions of law or the terms and conditions of the Scheme.

Writ petition is disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

07.12.2022

Sunil

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