

CWP-708-2019

**2023:PHHC:065908-DB
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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

220-1

CWP-708-2019

Date of Decision : May 08, 2023

GRAM PANCHAYAT BANIPUR

-Petitioner

V/S

STATE OF HARYANA & ORS.

-Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Vishal Yadav, Advocate
for the petitioner.

Mr. P.P. Chahar, Sr. DAG, Haryana.

Ms. Deepika, Advocate for
Mr. R.D. Yadav, Advocate
for the respondent No.3.

SURESHWAR THAKUR, J.(ORAL)

1. The petitioner- Gram Panchayat Banipur, Tehsil Bawal, District Rewari, becomes aggrieved from Annexure P-5, drawn on 03.07.2018, whereby the learned Commissioner, Gurgaon Division, Gurgaon, after reversing the order (Annexure P-3), as, made by Deputy Commissioner, Rewari, proceeded to allot a plot to the respondent No.3 herein, thus under Mahatma Gandhi Gramin Basti Yojna.

2. The relevant scheme making contemplations for allotment(s) being made, to the allottee(s) concerned, is carried in Annexure P-6. The relevant portion of the said scheme, as is applicable to the facts at hand, is extracted hereinafter:-

“(i) Family should be a unit. In this regard family means a consolidated unit as per the survey of the Rural Development Department for the year 2007.

XX XX XX

(vi) *The member of the family must not be employed in government/Board/Nigam Municipal Committee. Any of such family member must not be employed in any business, commerce etc.*

XX XX XX

3. The learned counsel appearing for the petitioner- Gram Panchayat contends, that in the drawing of Annexure P-5, the learned Commissioner, Gurgaon Division, Gurgaon, has not borne in mind the necessity of compliance being made with the above extracted conditions. The above made arguments, appear to be also supported, from a perusal being made of paragraph 6 of the reply on affidavit, as, furnished to the writ petition, on behalf of co-respondents No.1 and 2. The said paragraph is ad verbatim extracted hereinafter.

“That as per enquiry report conducted by Block Development and Panchayat Officer, Bawal, the respondent No.3 did not fulfill the condition No.1 prescribed in the policy (Annexure P-6) and there was no separate unit and his name was entered in the ration card of his father, who is serving in Indian Railway. This fact has also been mentioned in the order passed by the Commissioner, Gurgaon Division, Gurgaon (Annexure P-5). However, keeping in view the aforesaid facts, this Hon’ble Court may pass an appropriate order.”

4. The imperative necessity of compliance being made to the above extracted conditions, is thus indispensable, as thereby alone, a valid direction may be made to the co-respondent No.2. The learned Commissioner, Gurgaon Division, Gurgaon appears to be guided more by sympathetic considerations, than his strictly enforcing the said policy.

Contrarily, the learned Deputy Commissioner concerned, in his drawing Annexure P-3, has made a well informed and speaking decision, whereby, after meteing compliance to the above extracted conditions, and, also after bearing in mind, that there was no separation of the petitioner from the family of his father, who was serving as a government employee, therefore obviously he took to make a valid decision, that the allotment as made to the petitioner, whose father was serving in government, thus was required to be quashed and set aside, thus he aptly did so, through his drawing Annexure P-3.

5. The decision contrary to the one, as taken by the Deputy Commissioner concerned, is thus, for above stated reasons, rather drawn most whimsically and in an ill informed and slipshod manner, resultantly requires to be quashed and aside.

6. Therefore, the instant writ petition is allowed and the impugned order is quashed and set aside.

**(SURESHWAR THAKUR)
JUDGE**

**(KULDEEP TIWARI)
JUDGE**

**May 08, 2023
devinder**

Whether speaking/reasoned.	:	Yes/No
Whether Reportable	:	Yes/No