

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

Neutral Citation No. 2023:PHHC:104946-DB

(249)

CWP-12558-2023 (O&M)

Decided on: 08.08.2023

Sheenam Singla & another

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.Ravinder Bangar, Advocate, for the petitioner (s).

Mr.Deepak Bhardwaj, DAG, Haryana.

Mr.Deepak Sabherwal, Advocate, for respondent-HSVP.

G.S. Sandhawalia, J.

1. Prayer in the present writ petition filed under Articles 226/227 of the Constitution of India is for issuance of directions for release of the letter of intent of a residential plot No.1938, Sector 52, Urban Estate, Gurugram-II measuring 8 marlas.

2. The claim of the petitioners is on the ground that they were highest bidders in an auction held on 24.01.2023 and had deposited the requisite 10% of the bid price of Rs.2,62,02,200/- but the letter of intent had not been issued. Representation dated 26.04.2023 (Annexure P-7) had also been moved regarding the above fact which having not been acted upon, the jurisdiction of the Writ Court has been invoked.

3. In the short reply filed on behalf of respondents No.2 to 4, averment has been made that a wrong reserve price had been fixed on the basis of which the auction had been conducted and no letter of intent/allotment had been issued and therefore, it was not a concluded contract.

4. The State has taken the objection that the matter is covered by the judgment in CWP-19447-2021 titled *Dr.Sarita Gautam & others Vs. Haryana Shehri Vikas Pradhikaran & others*, decided on 27.09.2021 and therefore, the reserve price had been wrongly fixed and the correct reserve price had never been depicted in the said affidavit. Therefore, vide order dated 06.07.2023, a better affidavit was directed to be filed as to what was the correct price.

5. A large number of cases were disposed of today wherein the reserve price was fixed at a higher amount. The writ petitions have been dismissed on account of the fact that interest of the Public Exchequer was involved and therefore, in the absence of any vested right, the allottees had no right, keeping in view the law laid down in Dr.Sarita Gautam (supra) and the judgment passed by us in CWP-13656-2023 titled *Mahavir Singh Vs. Haryana Shehari Vikas Pradhikaran & others*, decided on 07.08.2023. However, as per the documents supplied today regarding the petitioners, it transpires that the reserve price of the plot in question has rather been reduced from Rs.2,27,82,200/- to Rs.2,26,16,200/-.

6. The judgment of the Apex Court in **Haryana Urban Development Authority & others Vs. Orchid Infrastructure Developers P. Ltd., 2017 AIR (SC) 882** discussed the issue that whether the authorities have a right to cancel the highest bid and came to the conclusion that there should be valid reasons and that the competency of the authority to cancel was there provided there was valid reason. In the present case, the HSVP has not been able to give any valid reason that the Public Exchequer had been put to a loss and the reserve price had been rather reduced to its detriment. Rather in the present case, it is reverse case and the reserve price has got reduced and therefore, the petitioner cannot

be prejudiced on that account and has to be given the due benefit of the bid amount of Rs.2,62,02,200/- of which she had also deposited the requisite 10% as per the terms and conditions of the auction.

7. The sufficient reason for rejection of the bid which have to be got was also highlighted in **Meerut Development Authority Vs. Association of Management Studies & another, (2009) 6 SCC 171** wherein it was held that the authorities in accepting and refunding must be free from arbitrariness and favoritism. Similar view was also taken in **M/s Star Enterprises & others Vs. City and Industrial Development Corporation of Maharashtra, (1990) 3 SCC 280** that sufficient reasons should be there to indicate the stand of the appropriate authority and which should be made available and ordinarily should be communicated to the concerned party. Thus, the reasons which have been given in the present case, as noticed, were only on the ground that a wrong reserve price had been fixed.

8. We had directed that a better affidavit be filed which has not been done and now we have been informed that the revised reserve price was lower than the one fixed earlier. In such circumstances, in the absence of any loss having been caused to the Government, the decision to cancel the highest bid in favour of the petitioner would suffer from vice of arbitrariness. The validity of the auction has to be adjudged by the reasons to be mentioned and they have to be objectively construed. The non-application of mind on behalf of the concerned authorities is thus, apparent and the decision can be safely said to be illegal, arbitrary and sans of reasons. The reason to cancel the bid being based on non-existent grounds and they being not justifiable, we are of the opinion that in the peculiar

facts and circumstances, a writ of mandamus is liable to be issued.

Ordered accordingly.

7. Resultantly, the present writ petition is allowed. Respondents shall issue the letter of intent to the petitioners within six month, so that they can comply with the said terms and conditions and deposit the balance amount. All pending application(s) are also disposed of.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

08.08.2023
sailesh

Whether speaking/reasoned	Yes	
Whether Reportable :		No