

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

CWP-12138-2017

Date of Decision: 23.03.2023

**HARYANA EXCISE & TAXATION WELFARE ORGANIZATION
...Petitioner**

Vs.

**HARYANA URBAN DEVELOPMENT AUTHORITY & ORS
...Respondent**

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: Mr. Sanjeev Sharma, Senior Advocate with
Mr. Vikram Vir Sharda, Advocate,
Mr. Sandeep Singh, Advocate and
Mr. Jugansh Goyal, Advocate
for the petitioner.

Mr. Deepak Sabherwal, Advocate
for the respondents.

AUGUSTINE GEORGE MASIH, J. (Oral)

Learned senior counsel for the petitioner has restricted the claim in the writ petition to the extent of grant of 20% rebate as per the policy of HUDA which has already been adjudicated upon by this Court in CWP-14184-2013 titled as Hermitage Cooperative Group Housing Society Limited Vs. State of Haryana and others decided on 21.11.2014.

On this basis, he contends that the benefit of the policy of the respondents need to be granted to the petitioner.

Learned counsel for the respondents on the basis of written statement which has been filed, submitted that 20% rebate is limited to the extent of the tentative price and not on the enhanced compensation amount which is actually paid by the HUDA as per the award. This contention of the

learned counsel for the respondent cannot be accepted in the light of the judgment referred to above, Hermitage Cooperative Group Housing Society Limited (supra) where it has been held as follows:

“A bare perusal of relevant clause 1.3 of the Group Housing Scheme, 2003 and agreement (Annexure P-5) entered between the petitioner and respondent No.2, which deal with the rebate aspect, clearly shows that the petitioner-society is entitled to rebate of 20% in the land cost provided such society has completed the building work within three years after handing over of the plot. There is no dispute about the fact that the petitioner-society has completed the construction within a period of three years from the date of handing over of possession. The rebate of 20% in the land cost includes the element of enhanced compensation by the Court. The term 'cost of land' cannot be read in its restricted meaning, as the enhancement of compensation under the Act is again an element towards cost of land and therefore, the petitioner-society will be entitled to get rebate of 20% on the land cost even on account of enhancement of compensation.”

Keeping in view the law laid down by this Court, SLP against which, as preferred by the respondent, having been withdrawn on 04.07.2016, respondents cannot run away from the interpretation as has been made by this Court referred to above.

In view of the above, direction is issued to the respondents to grant 20% rebate to the petitioner not only on the tentative price but on the enhanced amount of compensation as well. After adjustment thereto in case the amount is to be refunded, the same be refunded within a period of 06 weeks along with the interest. In case, the amount is to be paid by the petitioner, the same be intimated, which will also be deposited by them within a period of 04 weeks from the date of receipt of the demand, along

with interest.

It is clarified that learned senior counsel for the petitioner has stated that *qua* other reliefs, the remedies have been availed of by the petitioner.

Writ petition stands disposed of.

(AUGUSTINE GEORGE MASIH)
(JUDGE)

(SANJIV BERRY)
JUDGE

23.03.2023
kv

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