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

(i) CWP-29892-2017

M/s Anamika Groups ...... Petitioner

Versus

Haryana State Industrial and Infrastructure Development Corporation Ltd. and others

...... Respondents

(ii) CWP-25531-2019

M/s Shiv Enterprises ...... Petitioner

Versus

State of Haryana and others

...... Respondents

Date of Decision : 11.01.2023

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

***

Present : Mr. Rajesh Malik, Advocate
for the petitioner in CWP-29892-2017.

Mr. Pankaj Bali, Advocate
for the petitioner in CWP-25531-2019.

Mr. Ankur Mittal, Advocate with
Mr. Sugam Arora, Advocate
for the respondents in both the petitions.

***

VIKRAM AGGARWAL, J

1. Both these writ petitions impugne the action of the respondents whereby the industrial plots allotted to the petitioners initially at the rate of

Rs.13,000/- & Rs.10,810/- per square meter respectively were subsequently offered to them at the rate of Rs.16,500/- and Rs.13,500/- per square meter.

2. The facts are being taken from **CWP-29892-2017** (M/s Anamika Groups vs. Haryana State Industrial and Infrastructure Development Corporation and others) as the issue to be decided in both cases is the same.

3. Vide advertisement (Annexure P-1), online applications were invited for the allotment of industrial plots in various IMT/Industrial Estates in the State of Haryana. The first writ petition i.e. **CWP-29892-2017** pertains to industrial plots in Industrial Estate, Kundli and the second writ petition **CWP-25531-20179** pertains to industrial plots in Industrial Estate, Karnal. The last date for submission of applications was 30.11.2015. The advertisement mentioned tentative size, tentative number of plots and the tentative rate per square meter.

4. On submission of the online applications, plots were allotted to the applicants who were qualifiers of the first round at the rate of Rs.13,000/- per square meter. The petitioner was declared qualified for the second round but some objections were raised by the respondents and additional documents were sought. The petitioner submitted these documents to the Allotment Committee in its meeting held on 18th /19th March, 2016. On scrutiny of the documents, the petitioner was found eligible for the allotment of the industrial plot. However, the regular letter of allotment dated 15.09.2016 (Annexure P-2) mentioned the rate applicable for the financial year 2016-2017 was Rs.16,500/- per square meter instead of the rate applicable for the financial year 2015-16 was Rs.13,000/- per square meter. As per the

petitioner, the plot should have been allotted to the petitioner at the rates for the financial year 2015-16 as the petitioner had submitted the application during this financial year. The delay, as per the petitioner was on the part of the respondents in issuing the regular letter of allotment and the same could not be attributed to the petitioner. The petitioner filed representations but to no avail. Faced with the situation, the writ petitions were filed.

5. We have heard learned counsel for the parties and have perused the record of the writ petition.

6. Learned counsel for the petitioners have submitted that the action of the respondents in charging the rate applicable for the year 2016-17 i.e. Rs.16,500/- & Rs.13,500/- per square meter is illegal and arbitrary as the applications had been submitted by the petitioners in the financial year 2015-16. It has been contended that the delay in processing the applications, seeking additional documents and finally issuing the regular letter of allotment is not attributable to the petitioners and they are, therefore, not liable to pay the rate being demanded by the respondents. It has been submitted that the petitioners are entitled to the allotment of plots @ Rs.13,000/- per square meter (for kundli). In so far as the second case is concerned, the initial rate at which the plots were offered in Karnal was Rs.10,810/- per square meter but the regular letter of allotment was issued @ Rs.13,500/- per square meter which was the rate for the financial year 2016-17. It has been contended that since the advertisement was issued in the year 2015-16 the rates applicable in that year should have been charged. Learned counsel have submitted that though the regular letter of allotment was

accepted under protest, they have challenged the arbitrary charging of enhanced price by the respondents.

7. On the other hand, learned counsel for the respondents have submitted that in so far as the case of M/s Anamika Groups is concerned, its application was incomplete as certain documents had not been submitted. It has been submitted that on the furnishing of complete documents, the petitioner was found to be eligible and, therefore, the regular letter of allotment was issued and the rate prevalent in the year of the issuance of regular letter of allotment i.e. 2016-17 was charged. It has been contended that the delay is, therefore, not attributable to the respondents since it was the petitioner who had not submitted the complete information/documents. With regard to the plots at Karnal, it has been contended that initially, the Industrial Promotion Welfare Association had filed CWP-12486 of 2015 which was disposed of on 03.04.2017 by a Division Bench of this Court and in terms of the directions issued in that case, the letter of allotment was issued to the petitioner and other similarly situated persons. It has been contended that the petitioner cannot now turn back and say that it should have been allotted a plot at the rates for the year 2015-2016.

8. Admittedly, vide advertisement (Annexure P-1), online applications were invited for allotment of plots in various industrial model townships and industrial estates in the State of Haryana. This included Kundli and Karnal which are the subject matter of these two writ petitions. The basic issue involved is as to whether the respondents are justified in charging the rates for the year in which the regular letters of allotment were issued or they

should charge the rates at which the plots were offered vide advertisement Annexure P-1. For this, it shall have to be seen as to who is responsible for the delay in issuance of the regular letters of allotment. If the delay is attributable to the respondents, they would, of course, be liable to allot plots at the rates at which they were advertised. However, if the delay is attributable to the petitioners, they would be liable to pay the rates applicable for the year in which the regular letters of allotment were issued.

9. On 26.05.2022, the following order was passed in the present cases:-

> "Pursuant to the order dated 11.05.2022, Mr. Mittal, learned counsel for the respondent-HSIIDC, has filed in court today an affidavit dated 26.05.2022, executed by the Chief Co-ordiantor-cum-Head of Estate Division, HSIIDC, Sector-6, Panchkula, which is ordered to be taken on record.
>
> Mr. Mittal submits that though the advertisement in question had been issued in the year 2015, clause 18 thereof reads as follows:-
>
> > *"18. The allotment rate mentioned on the portal is tentative and allotment shall be made at the rate prevailing on the date of issue of RLA or Bid quoted by the applicant in case of e-auction, whichever is higher."*
>
> He thus submits that as is obvious from the above, the rates announced in the advertisement were only tentative and with the petitioner not having been found to be eligible for allotment of the plot initially, on the basis of financial criteria etc., however, since the number of plots available were far more than the number

of applicants (88 plots against 47 applicants), those who were found to be ineligible were also given another chance to prove their eligibility and for that purpose the petitioner was called for interaction on 28.03.2016; and on fresh assessment it was found to be eligible and eventually on 29.07.2016, a decision was taken to allot a plot to it at the rates prevalent in the year 2016-17 rather than the previous year and consequently, there was a differentiation of Rs.3000/- per sq. mtr. in the plots allotted to the allotees who were found eligible originally and in the case of the petitioner. He further submits that this decision was duly communicated to the petitioner, which it accepted and thereafter, a regular letter of allotment was issued on 15.09.2016 (Annexure P-2), to petitioner.

Prima facie at least, we would like to observe that if the petitioner was found eligible upon re-scrutiny/interaction on 28.03.2016, with the eligibility criteria submitted by the petitioner actually also available on the date of the original scrutiny, there would be no reason to deny the petitioner the benefit of the rates applicable in the financial year 2015-16; but on the other hand if the criteria which the petitioner was found to meet was by way of addition of assets (liquid or fixed etc.), as were added later by the petitioner, that would be a different matter altogether.

For that data to be placed on record by counsel for the petitioner as also respondents, adjourned to 26.08.2022.

CWP No.25531 of 2019

As regards this petition, Mr. Mittal, learned counsel for the respondent-HSIIDC, points out that it pertains to the Industrial Estate, Karnal, and the Industrial Promotion Welfare Association had filed CWP No.12486 of 2015, which was disposed of on 03.04.2017 by a co-ordinate Bench with the following order passed:-

> "(1) Learned counsel for HSIIDC, on the basis of the averments made in para 4 of the written statement dated 23.12.2016 (which is otherwise not on record), submits that HSIIDC is ready to issue allotment letters at the rate mentioned in the said written statement provided that the stay order passed by this Court on 02.12.2015 is vacated.
>
> (2) Learned counsel for the petitioner-Association states that the members of the Association are keen in getting the allotment letters.
>
> (3) In this view of the matter, the *ad interim* stay order dated 02.12.2015 is vacated and the writ petition is disposed of with a direction to HSIIDC to issue allotment letters in terms of its reply/affidavit dated 23.12.2016. In case the petitioner-Association has any grievance against the rate of allotment, liberty is granted to it to approach the HSIIDC who shall consider the petitioner's request sympathetically.
>
> (4) Ordered accordingly."

It is only thereafter that the letters of allotment were issued to the petitioner and others like it.

Learned counsel for the petitioner seeks time to go through the facts of that case to determine as to whether there is any distinguishing factor at all between

> the case of the petitioner and that of the Association of Industries pertaining to Industrial Estate, Karnal.
>
> Adjourned to 26.08.2022."

10. In so far as the first writ petition is concerned, the respondents have filed an additional affidavit of Sh. Sunil Sharma, Chief Coordinator-cum-Head of Estate State Division, HSIIDC on behalf of the respondents in the Court today. It has been stated in the said affidavit that initially regular letters of allotment were issued to eligible applicants in the financial year 2015-16 at the rate of Rs.13,000/- per square meter. However, the petitioner had been found to be ineligible since all documents had not been submitted in terms of the advertisement. A decision was taken by the respondents to afford an opportunity to all the ineligible applicants to interact with the Plot Allotment Committee with an aim to review their eligibility. Accordingly, the petitioner was called for interview before the Plot Allotment Committee on 28.03.2016. Based upon the information and additional documents submitted by the petitioner, the petitioner was found to be eligible and the regular letter of allotment was issued to him after he participated in the draw of lots held on 26.08.2016. It has been submitted that the petitioner participated in the draw of lots without raising any objection as the decision of the Committee to allot plot to him at the rates applicable for the financial year 2016-17 had duly been conveyed to him before the draw of lots was held. The details of the documents submitted by the petitioner subsequently, have also been annexed with the affidavit. It has also been stated in the affidavit that many other persons who had been found to be ineligible was

also found to be eligible subsequently on their having submitted additional documents.

11. It is, therefore, clear that the delay in issuance of the regular letter of allotment was not attributable to the respondents because it was the petitioner who had not submitted the complete documents and on submission of the documents, a decision was taken by the Plot Allotment Committee to allot a plot to the petitioner at the rates applicable for the year 2016-17. The petitioner participated in the draw of lots and subsequently raised an objection by way of the present writ petition. In the considered opinion of this Court, there is no illegality in the decision of the respondents in charging the rates applicable for the year 2016-17. The petitioner and other similarly situated persons were infact given a concession by the respondents by affording them another opportunity to present additional documents which the respondents were not even bound to do. We do not, therefore, find any merit in the arguments addressed by the petitioner.

12. Coming to the case of Karnal, the order dated 26.05.022 makes it very clear that the industrial promotion Welfare Association had filed CWP-12486-2015 with regard to the plots in the Industrial Estate, Karnal which was disposed of on 03.04.2017 by a Division Bench of this Court in which the respondents had submitted that they were ready to issue allotment letters at the rates mentioned in the written statement. The regular letter of allotment was accordingly issued to the petitioner at those rates. The petitioners subsequently raised a dispute and filed the writ petition. On 26.05.2022, learned counsel for the petitioner sought time to go through the

facts of that case to see as to whether there was any distinguishing factor between the case of the petitioner and that of the association but the petitioner has not been able to point out any distinguishing factor. Under these circumstances, there is no reason for this Court to deviate or take a different view from that taken by the Coordinate Bench in CWP-12486-2015.

13. In view of the aforementioned facts and circumstances, we do not find any merit in the present writ petitions and the same are, therefore, dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

11.01.2023
mamta

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No