

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

224 + 226

(i) CWP-7048-2017
Date of Decision : February 22, 2023

RAM AVTAR AND OTHERS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

(ii) CWP-10950-2017

VIJAY AND OTHERS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

(iii) CWP-23412-2017

SURESH AND ORS.

.....Petitioners

VERSUS

STATE OF HARYANA AND ORS.

.....Respondents

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

Present : Mr. Vikram Singh, Advocate
for the petitioners (in CWP-7048-2017).

Mr. Ashish Gupta, Advocate
for the petitioners (in CWP-10950-2017 & CWP-23412-2017).

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

Mr. Jugam Arora, Advocate for
Mr. Ankur Mittal, Advocate
for the respondent No.4 (in all the petitions).

SURESHWAR THAKUR, J.(ORAL)

1. This order shall dispose of all these three writ petitions, i.e.
CWP-7048-2017, CWP-10950-2017, and, CWP-23412-2017, as they arise
of the same verdict drawn on 24.10.2016, by respondent No.3. For brevity,

the facts are being extracted from CWP-7048-2017.

2. Through a Resolution made by the Gram Panchayat concerned, which is annexed as Annexure P-1 to the instant writ petition, a proposal was made for allotment(s) of land(s) to the petitioners. The Resolution carrying the above proposal was based on a policy, nomenclatured as “Mahatma Gandhi Basti Yojna”. A perusal of Annexure P-1, reveals that the Resolution of the Gram Panchayat concerned, carrying the above proposal, was accepted by the Committee concerned. However, a perusal of the relevant scheme, which is appended as Annexure P-2 to the instant writ petition, reveals that, subsequently the learned Collector of the revenue district concerned was to issue the allotment letter(s), and, but under his signatures, to the applicants concerned. Nonetheless, the learned Collector of the revenue district concerned, has evidently not accepted the proposal, as made by the Gram Panchayat concerned, through its Resolution, hence appended as Annexure P-1 to the instant writ petition, nor also the subsequent thereto endorsement(s) thereof, by the Committee concerned, has been accepted by the learned Collector of the revenue district concerned. Resultantly, no allotment letter, in pursuance to the said scheme, has been issued, in favour of the applicants concerned.

3. Be that as it may, subsequent to the above act(s) being done, but, at the instance of the Gram Panchayat concerned, and, later by the Committee concerned, and, not by the Collector concerned, as is required to be done by the latter, rather the land(s) concerned have merged in the municipal areas concerned. The counsel for the writ petitioners argues that, irrespective of the merger of the petition land(s), in the municipal areas concerned, yet, under the scheme (supra), still the Commissioner of the

Municipal Corporation, Gurugram, can yet, proceed to make an order of allotment, in pursuance to Annexure P-1.

4. However, for the reasons to be assigned hereinafter, the above made argument is rejected. This conclusion is based upon the factum, that there is a reply, on affidavit, furnished to the writ petition, with the disclosure(s) therein that, the scheme (supra), is not applicable to urban areas, where into, the petition land(s) have now merged. The effect of the above reply, on affidavit, is that, the Commissioner of the Municipal Corporation concerned, cannot proceed to assign any relevance to the resolution of the Panchayat concerned, and/or, to the subsequent thereto endorsement, as made by the Committee concerned. Moreover, the applicants had made applications, under the scheme (supra), and, the jurisdiction to assign the Sanad(s) to the applicants concerned, is enumerated therein, to vest in the Collector of the revenue district concerned, and, the Commissioner of the Municipal Corporation concerned, is not, authorized to make any Sanad, or, assignments in favour of the petitioners herein. Therefore, obviously the asked for mandamus, in the instant petition, that the Commissioner of the Municipal Corporation concerned, be directed to issue Sanad(s) in favour of the petitioners, is beyond the domain of the scheme (supra), and therefore, he cannot be directed to draw any Sanad in respect of the land(s) concerned, in favour of the petitioners.

4. Even otherwise, in case, there are some allotments made by the Collector of the revenue district concerned, but, when such allotments are submitted by the learned State counsel, to be made at a stage hence by the Collector concerned, when the land(s) concerned had not merged in the

municipal areas concerned. Therefore, on the basis of such allotments, the learned counsel for the petitioners cannot draw parity in respect of the petitioners herein. However, in the larger interest of justice, the State Government can proceed to, yet, under the relevant scheme, consider the bestowing of the requisite empowerment in the Commissioner of the Municipal Corporation, Gurugram. The above is necessitated, because the applicants are landless and homeless persons, and, in case, they are deprived of shelter, thereupon, the constitutional mandate of right to life, as enshrined in Article 21 of the Constitution of India, shall be completely frustrated, besides, shall be defeated. Therefore, in light of the constitutional mandate, as carried in Article 21 of the Constitution of India, the Government of Haryana is directed to take a compassionate view, and, is also expected to, under the relevant scheme, hence assign the power to issue the Sanad in favour of the Commissioner of the Municipal Corporation concerned. The above be considered to be done forthwith.

5. Disposed of in the above terms.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

February 22, 2023
devinder

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