



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

CWP-10150-1993

Reserved on: 17.07.2024

Pronounced on: 15.10.2024

Maharaja Aggarsain Educational Society, Fatehabad

....Petitioner

Versus

Haryana Urban Development Authority, Panchkula and Others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Amit Jain, Senior Advocate with
Mr. Chetan Slathia, Advocate for the petitioner.

Mr. Ankur Mittal, Advocate with Ms. Kushaldeep Kaur, Advocate
and Ms. Saanvi Singla, Advocate for the respondents-HUDA.

Mr. Shrenik Jain, Advocate for respondent No.3.

VIKRAM AGGARWAL, J.

1. The petitioner (Maharaja Aggarsain Educational Society) prays for the issuance of a writ of certiorari quashing the allotment of a primary school site in Fatehabad to respondent No.3 with a further prayer to issue a direction to the respondents to allot the said site to the petitioner.

2. Haryana Urban Development Authority (respondent No.1) (hereinafter referred to as the 'HUDA') issued an advertisement on 14.02.1988 (Annexure P-1) inviting applications from recognized schools/institutions for allotment of sites in various cities/towns of Haryana.

3. The petitioner and respondent No.3 applied for the allotment of a school site at Fatehabad. It is the case of the petitioner that respondent No.3 was neither recognized nor registered and despite the same, the school site was allotted to it on 30.01.1993 (Annexure P-2). It has been averred that the said allotment is illegal, arbitrary, mala fide and *ultra vires* Article 14 of the Constitution of India.

4. It has been averred that respondent No.3 was not registered on the date of the issuance of the advertisement and the registration certificate was issued

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on 29.02.1988 (Annexure P-3). Even the recommendation of the Deputy Commissioner, as per the petitioner, was not forthcoming which was one of the mandatory requirements as per the advertisement. It has further been averred that the site in question was meant for a primary school whereas respondent No.3 is a high school institution. It is the further case of the petitioner that the petitioner is a well-established institution running education institutions at Fatehabad and its application had also been recommended by the Deputy Commissioner concerned whereas respondent No.3 was running schools in Chandigarh and Mohali and had obtained registration at Fatehabad only to secure allotment of the school site. It has been alleged that the allotment in favour of respondent No.3 had been made by adopting a pick and choose policy and that there were no guidelines or uniform policy for such allotments.

5. The writ petition has been opposed by the respondents. In the written statement filed by respondent No.1 (HUDA), the basic stand that has been taken is that the allotment in favour of respondent No.3 had been made on the basis of guidelines issued on 06.06.1991 (Annexure R-1/1) regarding allotment of land to educational societies and the decision to allot the school site to respondent No.3 had been taken on the basis of the decision taken by a committee presided over by the Administrator, HUDA, Hisar and consisting of other members namely Estate Officer, HUDA, Hisar, City Magistrate, Hisar, Senior Town Planner, Hisar, District Town Planner, Hisar and Deputy District Education Officer, Hisar. The committee had given its recommendations on the basis of an interview held on 14.01.1992 (Annexure R-1/3). On the basis of the said recommendations, the Administrator, HUDA, Hisar, vide communication dated 17.01.1992 (Annexure R-1/2) conveyed the said recommendation alongwith other recommendations to the Chief Administrator, HUDA on the basis of which the

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allotment was made in favour of respondent No.3. The provisional letter of allotment was issued on 12.05.1992 and regular letter of allotment was issued on 20.01.1993. Further, possession of the site was also delivered on 01.02.1993 and building plans were sanctioned on 03.02.1993. It has been averred that the application received on 29.02.1988 was duly recommended by the Deputy Commissioner, Hisar. Dismissal of the writ petition has accordingly been prayed for.

6. Respondent No.4 is Shri Ram Sewa Samiti which was also one of the applicants. It was impleaded as a party on an application moved by it vide order dated 12.09.2003. It has also filed a short written statement in which it has merely been mentioned that respondent No.3 nowhere mentioned in the application form that it was recognized and that provisional recognition was granted on 28.02.1989. It has also been averred that the allotment made in favour of respondent No.3 was illegal.

7. The writ petition has been opposed by respondent No.3. It has been averred that the petitioner was not even an applicant for the allotment of the school site in question and that the allotment in favour of respondent No.3 had been made after following the due procedure and provisions of law. The details of the advertisement, submission of applications, consideration of the matter by the committee and, thereafter, allotment in favour of respondent No.3 has been referred to which is not being repeated. It has been averred that the other two applicants namely, Shri Ram Sewa Samiti, Fatehabad (respondent No.4) and the petitioner i.e. Maharaja Aggarsain Educational Society, Fatehabad were ignored as they were defaulters of HUDA and had encroached upon the HUDA land in Urban Estate, Hisar. It has been averred that the record of respondent No.3 was found to be clean as a result of which the school site was rightly allotted to

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respondent No.3. On merits also, all averments made in the writ petition have been denied and the allotment in favour of respondent No.3 has been supported.

8. Learned counsel for the parties were heard.

9. It was strenuously urged by Sh. Amit Jain, learned Senior counsel representing the petitioner that the site in question had been allotted in violation of the guidelines as respondent No.3 was not even registered on the day of the advertisement and was in fact subsequently registered. While referring to the advertisement (Annexure P-1), it was submitted that the applications had been invited from recognized schools/institutions and that respondent No.3 had been registered on 29.02.1988 (Annexure P-3) whereas the advertisement was issued on 14.02.1988. It was submitted that accordingly on the date of the issuance of the advertisement, respondent No.3 was not registered and was, therefore, not eligible. The second argument which was raised that respondent No.3 was not recognized. It was submitted that the policy/guidelines dated 06.06.1991 (Annexure R-1/1) was in fact a tailor made policy. It was strenuously urged that, under the circumstances, the allotment is not sustainable.

10. On the other hand, learned counsel for the respondents opposed the submissions made by learned Senior counsel and submitted that the allotment was made in accordance with the relevant policy/guidelines and after due application of mind by a committee specially constituted for the purpose.

11. We have considered the submissions made by learned counsel for the parties and have also gone through the respective pleadings and the documents annexed alongwith the said pleadings.

12. Applications for allotment of school sites on leasehold basis were invited from recognized schools/institutions vide advertisement dated 14.02.1988.

The school sites were situated in different cities namely Hisar, Jind, Adampur,

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Fatehabad, Sirsa and sub-divisions of Hisar and Sirsa. Further, the sites for which applications had been invited were primary school sites and one higher secondary school site. In so far as Fatehabad is concerned, a primary school site was sought to be allotted. After the submission of applications, a meeting was held on 14.01.1992 under the Chairmanship of the Administrator, HUDA, Hisar. The minutes of the said meeting are on record as Annexure R-1/3. As regards the site in question, it was observed that there were three applicants and the name of respondent No.3 was recommended keeping in view the past performance and on account of it functioning from a rented building. The names of the petitioner and respondent No.4 were not recommended. Reference was also made to the guidelines (Annexure R-1/1) issued by HUDA *qua* allotment of land/school sites wherein it was laid down as under:-

“The matter regarding framing of policy guidelines for allotment of land for school sites in the various Urban Estates of HUDA was placed before the Authority in its 49th meeting hold on 2.4.91. The Authority have approved the following policy guidelines:-

- 1. The Educational Society// Institution/Trust should be a registered institution.**
- 2. Preference to be given to those Educational Societies/Institutions who are already running schools in rented building or in its own building but have not sufficient space for running a school and also whose members have sufficient experience of running school and who may not running any school at the time of applying for land.**
- 3. Financial position of the Institution/Society/ Trust should be sound to pay the cost of the land.**
- 4. Capacity of the school to complete the construction of school building within 2 years of the delivery of possession of the land.**
- 5. Offer should be made on the basis of letter of intent for a period of 6 months in which the parties should get the buildings plan approved besides arranging funds for construction. After that regular allotment should be made.**



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6. In case the land is not utilized for the purpose for which allotted, it will revert to the HUDA alongwith construction made thereon.

7. Transfer of plot should not be allowed under any circumstances.

8. The Educational Societies/Institutions/Trusts should reserve 10% seats in the school for students belonging to economically weaker sections of the Society and the same fees will be charged from such students as is charged by Govt. Schools. Further, 10% seats in the Schools should also be reserved for these students in respect of whom the fees will be determined on the basis of means and merit of individual case.

9. The management committee of the school shall have one representative of HUDA as its member.”

13. On the basis of the recommendations of the committee, the Administrator, HUDA, Hisar issued a letter dated 17.01.1992 to the Chief Administrator, HUDA conveying the recommendations of the committee and on the basis of the same, allotment was made in favour of respondent No.3. As regards the objections raised by the petitioner, it emerges that firstly respondent No.3 is a registered society and was registered when it filled the application for allotment of the school site and as per the own case of the petitioner, respondent No.3 was registered under the Societies Registration Act, 1860 on 29.02.1988. This was the last day on which applications could have been submitted for allotment of a school site and it is on this day that the application was submitted by respondent No.3 duly recommended by the Deputy Commissioner, Hisar which has so been mentioned in the written statement filed by respondent No.1 and has not been controverted by the petitioner by way of any replication etc. The applicants were duly interviewed and the committee made its recommendations on the basis thereof which were approved by the Chief Administrator. It is the specific case of the respondents that the allotment was made in terms of the



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allotment was issued on 12.05.1992 followed by regular letter of allotment on 20.01.1993 and even possession was delivered on 01.02.1993. Further, the school got provisional recognition w.e.f. 28.02.1989 which in any case was prior to the issuance of the letter of allotment and moreover, it was a primary school as a result of which, there was no requirement of affiliation also. It has also come on record that apart from the current writ petition, two civil suits had also been filed, one by Hari Chand and others challenging the same allotment and the second by Shri Ram Sewa Samiti (respondent No.4 herein) against the said allotment. Both suits were dismissed and appeals against the judgment and decree were also dismissed and Regular Second Appeals No. ***RSA-205 of 2000*** titled as '***Hari Chand and Others Vs. St. Soldier International Convent School and Another***' and ***RSA-873 of 2002*** titled as '***Shri Ram Sewa Samiti Vs. Saint Soldier International Convent Educational Society and Others***', are pending adjudication before this Court. The present writ petition had been admitted vide order dated 05.04.1994 and was subsequently ordered to be heard alongwith the said Regular Second Appeals. However, since the writ petition is being heard by a Division Bench, the Regular Second Appeals would be listed as per roster before the Single Bench. Ordered accordingly.

For the reasons aforementioned, we do not find any merit in the present writ petition and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 15.10.2024

Prince Chawla

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.