

2024:PHHC:141145



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

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**CWP No.16646 of 1997
Date of decision : 28.10.2024**

TEJA SINGH

..PETITIONER

VS.

**FINANCIAL COMMISSIONER (APPEALS-I)
PUNJAB AND OTHERS**

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Amit Jain, Sr. Advocate with
Mr. Varun Parkash, Advocate for the petitioner.

Mr. G.S. Bhullar, DAG, Punjab.

Mr. Vikas Singh, Advocate for respondent No.4.

JAGMOHAN BANSAL, J.(ORAL)

1. The instant petition under article 226/227 of Constitution of India is for seeking setting aside of order dated 08.10.1997 whereby Financial Commissioner Appeals-I, Punjab has allowed revision against order passed by Commissioner(Appeals) Patiala and ordered to petitioner to vacate the land. The said authority has further directed Surjan Singh-respondent No.4 to appear before Sub Divisional Officer (Civil)-Cum-Collector (Agrarian), Malkerkotla for the allotment of land in question.

2. The Collector vide order dated 24.08.1963 declared part of land of Smt. Basant Kaur 'surplus'. The petitioner vide sale deed dated

31.07.1973 purchased a piece of land from Basant Kaur which comprised of land in dispute. The land was purchased in stark contravention of the provisions of The Punjab Land Reforms Act, 1972 (for short 1972 Act) thus said purchase was ordered to be ignored under Section 4(5) of the 1972 Act. A litigation ensued between petitioner and authorities and matter came to be settled vide order dated 03.08.1983 passed by this Court in CWP No.2567 of 1983 whereby claim of the petitioner was declined.

3. The petitioner applied for allotment of surplus land, however, his application came to be rejected on 04.06.1975. He again filed an application which was also rejected on 22.09.1980. He filed 3rd application which came to be allowed. It is apt to notice here that Naib Tehsildar, Dhuri had recommended allotment in favour of Surjan Singh S/o Ganda Singh (respondent No.5). He had submitted in his report dated 11.07.1988, that petitioner and his family members are already possessing land and Surjan Singh who belongs to Scheduled Caste is the most eligible person for the allotment of land. The Collector(Agrarian), Malkerkotla ignoring recommendations of Naib Tehsildar allotted land in favour of petitioner-Teja Singh vide order dated 28.08.1989. The operative part of order dated 28.08.1989 passed by Collector (Agrarian) is reproduced as under:

“I find that Teja Singh belongs to V. Quilla Hakiman and he is a sitting tenant. It is further evident that Teja Singh owns or holds landless than two hectares of first quality land or its equivalent area. On the other hand, there is evidence on the record to prove that Surjan Singh is an outsider being a resident of village Hassanpur, as he is entered as Voter No.313 in the Voters List of that village....Under the circumstances, I find that Teja Singh is the most eligible person as he is the sitting tenant. Under the Scheme for Utilisation of Surplus Area, First step towards utilization of surplus area is confirmment of rights of ownership on sitting tenants and to provide them security. Sitting tenants can not

be and should not be ousted as long as they are wanting to continue on the land. It is on the file that Nazar Singh was allotted land, but he did not occupy the same because Teja Singh was a sitting tenant and it is not easy and proper to dislodge a sitting tenant. Moreover it this land is allotted to any other person, a dispute will arise regarding possession and a sitting tenant, who is eligible because he holds less than the permissible area, is more secure under the existing laws and it is not easy to dispossess him. Therefore, whole exercise will come to a naught if it is given to any body else and parties enter into un-necessary and avoidable litigation.

In view of above, the land in dispute is allotted to Teja Singh son of Kartar Singh of V. QillaHakiman. This land measuring 33 kanals and is comprised of Khasra Nos. 73//15/2-0, 16/8-0, 73//17/1/1-0, 72//11/2/4-0, 72//12/2/2-0, 72//20/8-0 and 21/8-0 situate in QillaHakiman revenue estate, Compensation for the said land is assessed @ Rs. 660/- (fair rate) per year and its 12 times comes to Rs. 7920/-. So this amount of compensation should be paid by Teja Singh.”

4 Feeling aggrieved from aforesaid order, Surjan Singh-respondent No.5 preferred an appeal before Commissioner(Appeals), Patiala who rejected the same vide order dated 03.04.1995. The operative portion of order dated 03.04.1995 is reproduced as under:-

“I have gone through the written arguments submitted by the parties as well as the record of the case. I find that the impugned order of the learned Collector is very detailed and he has examined all the aspects of the case. The arguments advanced by the respondent are very convincing and it is very clear that the appellant is only trying to grab something for which he is not at all entitle. I do not find any force in the appeal and therefore the same is dismissed.”

5. Surjan Singh-respondent No.5 feeling aggrieved from orders passed by Collector and Commissioner (Appeals) preferred a revision petition before Financial Commissioner (Appeals-I), Punjab. The matter came up for consideration before Financial Commissioner, who vide impugned order dated 08.10.1987 set aside orders of authorities below and held that Surjan Singh is the most eligible candidate for the allotment of

surplus land and authorities have wrongly allotted land to Teja Singh-petitioner.

6. Mr. Amit Jain, Sr. Advocate with Mr. Varun Parkash, Advocate for the petitioner submits that impugned order is contrary to factual and legal position. Respondent No.5 was also possessing land thus he was not eligible for the allotment of land. The petitioner was a *bona fide* purchaser, thus, he could not be deprived from land which he had purchased. The fraud, if any, was played by vendor and petitioner being a *bona fide* purchaser for consideration could not be penalized. The purchase was declared illegal and on the date of application, he was not possessing any land. The respondent No.5 did not belong to village where land was located thus he could not be allotted land.

7. Per contra, Mr. Vikas Singh, Advocate submits that petitioner was never a landless agricultural worker. The petitioner was neither a tenant having no other land nor a landless agricultural worker whereas respondent was a member of Scheduled Caste and he did not hold land of the first quality or its equivalent. Thus, he was the most eligible candidate.

8. I have heard the arguments and perused the record. The claim of petitioner has been declined by Financial Commissioner (Appeals-I) on the basis of definition of 'eligible person' as prescribed under para 2 (c) of Utilisation Scheme, 1973. The said para is reproduced as below:-

“Para 2 (c) “eligible person” means a major person who has been residing in the State of Punjab for a period of five years before the commencement of this scheme and is primarily engaged in agriculture as his occupation and who is

(i) a tenant, or a member of scheduled caste or Backward Class and does not own or hold any land

- or owns or holds land less than two hectares of the
first quality land or its equivalent area or
(ii) a landless agricultural worker.”

9. From the perusal of aforesaid para defining expression “eligible person”, it is evident that applicant must be major and he must be resident of State of Punjab for a period of 5 years before the commencement of scheme and should be primarily engaged in agriculture as his occupation. The petitioner is doubting claim of respondent on the ground that he did not belong to village where land was located. As per definition of eligible person, the person should be resident of State of Punjab and there is no requirement that he should be resident of the village where the land is located. Nevertheless, Financial Commissioner Appeals-I has recorded categoric finding to the effect that village where respondent was staying falls within same Patwar Circle, thus he cannot be denied benefit of allotment of surplus land.

10. The petitioner is claiming that he was a landless agricultural worker. Thus, he should be considered for the allotment of land. By order dated 23.08.2024, this Court directed both sides to file affidavit disclosing status of their land holdings on the date of introduction of scheme as well as date of allotment of land in question. They were also asked to disclose land owned by their parents. The petitioner in his affidavit dated 14.10.2024 has disclosed that he received 95 Kanals and 7 Marlas land from a distant relative on 28.10.1963 by way of registered transfer deed. The said land was sold by three sale deeds in 1967 and 1973. The sale proceeds of the aforesaid land was utilized to purchase 167 Kanals and 3 Marlas of land from Smt. Basant Kaur whose land was declared surplus. The land from said

land was purchased on 31.07.1973. Disputed 33 Kanals land forms part of 167 Kanals and 3 Marlas land purchased by him. He has sold 103 Kanals land out of aforesaid 167 Kanals and 3 Marlas land.

The possession of 95 Kanals and 7 Marlas land in 1963 and thereafter, purchase of 167 Kanals and 3 Marlas land in July, 1973 indicates that the petitioner was neither a tenant nor a landless agricultural worker. He purchased land in 1973 which had already been declared surplus which shows his act and conduct. He filed application in 1975 and 1980 seeking allotment of surplus land. On both the occasions application was dismissed and he did not challenge those orders. He had no right to file 3rd application. Nevertheless, it was filed and Collector (Agrarian) ignoring report of Naib Tehsildar ordered to allot surplus land in his favour. The Financial Commissioner has rightly set aside allotment of land in favour of petitioner. The petitioner did not fall within the definition of 'eligible person' thus there was no question to allot surplus land to him. The respondent No.5 belongs to Scheduled Caste and as per his affidavit and report of Naib Tehsildar, he was not possessing any land and fell within the definition of 'eligible person'.

11. In the wake of above discussion and findings, the instant petition being bereft of merit deserves to be dismissed and accordingly dismissed.

Pending Miscellaneous Applications, if any, stand disposed of.

October 28, 2024

Poonam Sharma

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No