



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15562 of 2007 (O&M)
Reserved on: 29.08.2024
Pronounced on: 18.11.2024

Champion Gym Fitness Equipment LimitedPetitioner

V/s

State of Haryana and othersRespondents

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

Present: Mr. Alok Mittal, Advocate, for the petitioner.
Mr. Ankur Mittal, Addl. Advocate General, Haryana with
Ms. Kushaldeep Kaur, Advocate,
for respondents No.1 to 3 and 6.

VIKRAM AGGARWAL, J.

1. The petitioner prays for the issuance of a writ of mandamus directing respondents No.1 to 3 and 6 (Haryana State Industrial Development Corporation) (for short the “HSIIDC”) to allot Plots No.1666-1667, situated in Industrial Area, Rai, District Sonapat to the petitioner company and to cancel the allotment of these plots made in favour of respondents No.4 and 5. A direction is also sought to HSIIDC to frame some criteria for allotment of plots.
2. The petitioner claims to be a manufacturer of latest gym equipments having very good reputation in the field. Its managing director is stated to be an experienced person having good educational background.
3. It is the case of the petitioner that initially Plots No.531-532,



measuring 312.50 sq. mtr. each were allotted to the petitioner in Industrial Area, Rai for a project for manufacturing gym equipments. However, on account of creation of a new food park, the said plots were changed to Plots No.248-249 having the same size. Subsequently, the petitioner sought some more plots upon which Plots No.1680-1681, measuring 1012.50 sq. mtr. each were allotted. As per the petitioner, immediately the plant was established and the entire outstanding dues were paid and production also commenced.

4. In 2006, for the petitioner company had expanded and had progressed, it requested for allotment of two more plots i.e. Plots No.1666 and 1667 vide application dated 01.03.2006 (Annexure P-1).

5. Subsequent to this, advertisement dated 16.07.2006 (Annexure P-2) was issued by the HSIIDC for allotment of industrial plots and sheds which included 85 plots measuring 1012.6 sq. mtr. Pursuant to the said advertisement, the petitioner applied for Plots No.1666-1667 along with all documents viz. the project report, experience documents etc. Initially, the interview/interaction was fixed for 4th and 6th June 2007 but since the petitioner could not appear on account of the communication having been sent at the wrong address, the interview was fixed for 06.07.2007.

6. It is the case of the petitioner that officials of the HSIIDC were annoyed with the petitioner, as a result of which they did not respond to a number of communications sent by the petitioner which have also been placed on record as Annexures P-5 and P-7 to P-9 respectively.

7. It is also the case of the petitioner that on the day of the interview/interaction, more than 300 persons had been called and the same



was just a formality as no one was asked anything by the allotment committee. It was ultimately found that the plots had been allotted to respondents No.4 and 5, who, according to the petitioner, were not eligible for the same. It is the case of the petitioner that the petitioner was much more meritorious than respondents No.4 and 5 and that a pick and choose policy had been adopted by the HSIIDC. It was specifically alleged that respondents No.4 and 5 had formed their firms on 30.08.2006 only for the purpose of applying for the plots and that these firms were not in existence before 30.08.2006. The achievements of the petitioner company have also been highlighted in the writ petition and various photographs and catalogue have been annexed as Annexures P-11 and P-12.

8. Respondents No.2, 3 and 6 filed a joint written statement, whereas respondent No.4 filed a separate written statement which was adopted by respondent No.5. The case of the official respondents is that the petitioner had not complied with the terms and conditions of allotment of Plots No.1680-1681 which had been allotted to it on 31.03.2003. As against projected turnover of Rs.2.20 crore which was the figure given at the time of seeking allotment of Plots No.1680-1681, the petitioner achieved a turnover of Rs.82.46 lakhs only. It had also not completed the maximum permissible floor area ratio (for short the "FAR") which was 125%, whereas the petitioner had raised construction only to the extent of 60% of the permissible FAR.

9. As regards allotment of Plots No.1666-1667, which fall on the back of the Plots No.1680-1681, it has been averred that initially the application was submitted without any advertisement. Pursuant to the



advertisement dated 16.07.2006 (Annexure P-2), the petitioner was called for interview on 06.06.2007 and subsequently on 06.07.2007. The matter was considered by the allotment committee and having found that the petitioner company had not furnished proof of any resources available with it and keeping other factors in mind, the allotment was not recommended in favour of the petitioner but was recommended in favour of respondents No.4 and 5.

10. It has been averred that the allotment committee considers the entire background of the applicant i.e. qualification, experience, working results of the existing firm, marketing arrangement, experience in the line, potential for export, financial resource position, justification of the proposed area and whether the project involves shifting of units from non-conforming area to conforming areas etc. Other factors like nature of the project, financial details, entrepreneurship and performance of the applicant at the time of interview are also considered. It has been averred that the committee gives preference to established entrepreneurs on the one side and on the other side also gives adequate representation to the first generation, small/middle level entrepreneurs and women entrepreneurs. The allotment of plots in question to respondents No.4 and 5 has, therefore, been justified and minutes of the allotment committee have been placed on record as Annexure R-1.

11. In the written statement filed by respondent No.4, it has been averred that the petitioner seeks judicial review of policy matters which is not permissible. It is also the case of the private respondents that the re-appraisal of the merits of the matter is not permissible which is the domain



of the allotment committee. The case set up by respondent No.4 is that the motive of the petitioner is to monopolize the area by enlarging the allotted land and holding in front and sideways despite the fact that the earlier allotted land is still not fully utilized.

12. It has been denied that respondent No.4 is in the business of property dealing. The details of business dealings of respondent No.4 have been given in the written statement and its turnover from the year ending 31.03.2002 till 31.03.2006 has also been depicted in a tabular form.

13. It is the case of the private respondents that the allotment of the plots to them is purely in accordance with law.

14. A number of documents indicating the existence of respondent No.4 in the field of handlooms for a long time have also been annexed with the written statement. As was observed earlier, respondent No.5 adopted the written statement filed by respondent No.4.

15. In the replication submitted to the written statements, the averments made in the written statements have been denied and those made in the writ petition have been reiterated.

16. Learned counsel for the parties were heard.

17. It was submitted by learned counsel representing the petitioner that the allotment of the plots in question to respondents No.4 and 5 has been made without following the due procedure and by throwing all rules to the winds. It was submitted that the petitioner is a well established name in the field of manufacturing of gym equipments and is internationally acclaimed, whereas respondents No.4 and 5 have no standing in the industry and, therefore, the request made by the petitioner to allot Plots No.1666-1667,



which were adjoining to the plots already owned by the petitioner, was not unreasonable. It was submitted that if at all respondents No.4 and 5 also deserved to be allotted plots, they could have been allotted some different plots instead of allotting the plots in question to them. Learned counsel made efforts to convince this Court that the petitioner is more deserving and meritorious and under the circumstances, the plots in question should have been allotted to it.

18. *Per contra*, it was submitted by learned counsel representing respondents No.1 to 3 and 6 that the allotment of plots in question to respondents No.4 and 5 is perfectly legal and valid and does not call for any interference in judicial review. It was submitted that the allotment committee consists of experts who examine the matter from all angles and then make recommendations for allotment. It was submitted that in the present case, the allotments were made to respondents No.4 and 5 after keeping all factors in mind and that in any case, there is no vested right in the petitioner to seek allotment of the plots in question.

19. We have considered the submissions made by learned counsel for the parties and have perused the paper book.

20. It is not in dispute that the petitioner is a well established industrial unit involved in the manufacturing of gym equipments. It was earlier allotted two plots measuring 312.50 sq. mtr in Industrial Estate, Rai. These allotments were made way back on 03.04.2001. The plots were subsequently changed in December 2001 from Plots No.531 and 532 to Plots No.248 and 249 on account of creation of food park etc. Subsequently, on a request made by the petitioner, Plots No.1680 and 1681 measuring 1012.50



sq. mtr. each were also allotted to the petitioner on 31.03.2003. In 2006, the petitioner made a request for allotment of the plots in question i.e. Plots No.1666-1667 measuring 1012.5 sq. mtr. each. The interest in these plots was on account of these plots being situated on the back of Plots No.1680 and 1681 which had earlier been allotted to the petitioner. It would be apposite to notice here that the application for allotment of the plots in question was made in March 2006 but the advertisement for allotment of plots including these plots came out in July 2006, the last date for applying being 31.08.2006.

21. The representatives of the petitioner company were interviewed along with other applicants and ultimately respondents No.4 and 5 were found to be suitable for allotment. The minutes of the allotment committee are on record. While allowing the allotment of plots to respondents No.4 and 5, it was observed by the committee as under:-

“Shri Rajesh Gupta appeared before the allotment committee and informed that he is already engaged in exports from Panipat with turnover of above Rs.5 crore and now proposes to set up a unit for mfg. of connton made ups on framelooms at I.E.Rai.

THE COMMITTEE CONSIDERING THE BACKGROUND, EXPERIENCE AND RESOURCES AVAILABLE WITH THE PROMOTER(S), FOUND THE APPLICANT ELIGIBLE FOR ALLOTMENT AND ALLOTTED PLOT NO.1666, MEASURING 1012.5 SQ. MTR. AT I.E.RAI.”

“Shri Rajesh Jain, partner of the firm appeared before the Allotment Committee and informed that the applicant is a proposed partnership firm of Shri Rajesh Jain and Smt. Anju Jain. He further informed that he is presently partner in M/s R.K. Dyeing Industry, which firm achieved turnover of Rs.11.27 crore during 2005-06 and has now proposes to set up a unit for mfg. of Trading of all kind of hand tufted woolen carpets at I.E.Rai.

THE COMMITTEE CONSIDERING THE BACKGROUND,



EXPERIENCE AND RESOURCES AVAILABLE WITH THE PROMOTER(S), FOUND THE APPLICANT ELIGIBLE FOR ALLOTMENT AND ALLOTTED PLOT NO.1667, MEASURING 1012.50 SQ. MTR. AT I.E.RAI.”

As regards the petitioner, it was observed as under:-

“Shri Madan Lal, director of the company appeared before the Allotment Committee and informed that the applicant is a Pvt. Ltd. Co. incorporated in the year 2003, promoted by Shri Madan Lal and Shri Tara Chand Gandhi (graduate). The company is engaged in mfg. activities of gym equipment’s. Both the directors are having 13 years experience in the same line of business. The company achieved sales turnover of Rs.82.47 lacs during 2004-05 and has now proposes to set up a unit for mfg. of Gym, Health Club Equipment’s at I.E.Rai.

THE COMMITTEE OBSERVED THAT THE LEVEL OF ITS EXISTING OPERATIONS AND THAT PROPOSED IN THE PROJECT DOES NOT JUSTIFY THE SIZE OF PLOT PROPOSED FOR THE PROJECT, HENCE FOUND THE APPLICANT INELIGIBLE AND DECIDED TO REFUND THE APPLICATION MONEY.”

22. It has to be borne in mind that these committees are specifically set up for such matters on account of them having the expertise to examine the merits and demerits of each candidate. In judicial review, Courts are not normally expected to substitute their opinion unless the facts are so glaring that such substitution of opinion becomes imperative. Further, merely because the petitioner already had plots in the area would not clothe it with some special right to seek allotment of the plots in question as well. It could have, at best, participated along with other candidates. The minutes of the committee, reproduced in the preceding paragraph show that the committee took note of the fact that the turnover of respondents No.4 and 5 was Rs.5



petitioner for 2004-05 was Rs.82.47 lakhs. The committee also found that the level of existing operations of the petitioner and that proposed in the project did not justify the allotment of the size of the plots proposed for the project. It was also found that the petitioner had achieved a turnover of Rs.82.47 lacs in 2004-05 whereas turnover of respondents No.4 and 5 was much higher.

23. In our considered opinion, the reasoning given by the allotment committee appears to be reasonable and cannot be said to be discriminatory in any manner whatsoever. Even otherwise, as observed in the preceding paragraph as well, Courts would be extremely hesitant in interfering in such matters, unless *mala fides* are shown to have been there or if the decision making process is found to be illegal and arbitrary. In so far as the present case is concerned, no such *mala fides* or fault in the decision making process has come to fore.

24. As regards the claim of the petitioner of being more established in the field and respondents No.4 and 5 having established their firm in August 2006 only, no concrete document has been placed on record. In any case, all documents were duly considered by the allotment committee and then allotments were made in favour of respondents No.4 and 5. It is also to be borne in mind that preference was not only to be given to the previous players but was also to be given to new entrants, though respondents No.4 and 5 were not new entrants. We do not, therefore, find any reason, whatsoever, to interfere in the said decision taken by the allotment committee.



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not find any merit in the instant writ petition and the same is accordingly dismissed.

(ARUN PALLI) (VIKRAM AGGARWAL)
JUDGE JUDGE

Reserved on: 29.08.2024
Pronounced on: 18.11.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No