

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26503-2023
Date of Reserve: 06.12.2023
Date of Pronouncement: 26.02.2024

Raman SharmaPetitioner

Versus

State of Haryana and othersRespondents

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

Present: Mr. Arun Singla, Advocate,
for the petitioner.

ARUN PALLI, J.

1. The petitioner has prayed for the following substantive relief:-

Civil Writ Petition under Article 226 of the Constitution of India praying for the issuance of an appropriate writ, order or direction in the nature of Certiorari for setting aside the impugned Clause 2 (a) of the Policy Memo No.UB-1-NK-2008/30928-48 dt. 29.08.2008 (Annexure P-6), whereby condition has been imposed upon the applicant(s) about registered with the Bar Council of Punjab & Haryana High Court for at least one year on the date of submitting his or her application for the allotment of a plot under the Policy (P-6), which is illegal, unjust, improper, ultra-vires, discriminatory, arbitrary and ab-initio, as such the above said clause 2 (a) to the extent as mentioned above, is liable to be set-aside.

AND

Further, praying for the issuance an appropriate writ, order or direction in the nature of Certiorari for

setting aside the impugned order dated 08.01.2015 (Annexure P-11) and impugned order Memo No.ADA/2015/67 dated 15.01.2016 (p-14), whereby the claim of the petitioner for allotment of plot under Advocate Quota, has been declined, which is illegal, unjust, improper, against the facts & circumstances of the case as well as settled law, hence the impugned orders (P-11 & P-14) are liable to be set aside by this Hon'ble Court.

AND

Further issuance of a writ in the nature of mandamus, directing respondents to keep the plot intact bearing No.904-P, Sector 33, Part I, Hisar, Haryana, which was allotted to the petitioner as the petitioner is successful candidate in the draw of plots conducted by the respondents.”

2. Learned counsel for the petitioner submitted that the petitioner was enrolled as an Advocate with the State Bar Council of Madhya Pradesh w.e.f. 21.11.1998. Whereafter, he shifted to Hisar (Haryana), and obtained membership of the District Bar Association on 13.09.2000. And since then, he has been into active practice and is a permanent resident of Hisar. On 29.08.2008, the respondent-HSVP (erstwhile HUDA) floated a Policy (P-6), which provided reservation in allotment of residential plots/sites to the Advocates in Urban Estates developed by HUDA. And, as per the said policy, 5% of the plots/residential sites in **Medium Potential Zone**, were reserved for Advocates, which, apart from other cities/towns, delineated therein, also included Hisar. And as regards the **Low Potential Zone**, which included all the remaining declared controlled areas in the State, 10% of the sites were reserved for Advocates. Further, he submitted that allotment process was governed by certain terms and conditions, such as, the

applicant must be a Lawyer practicing in that Urban Estate, where he/she applies. He/she should be a member of the Bar Association of the District/Sub-Division, which the concerned Urban Estate is comprised in. And is also registered with the Bar Council of Punjab and Haryana High Court for, at least, one year on the date of submitting his/her application for allotment of a plot.

3. It is submitted that respondent authorities invited applications for allotment of plots in Sector-33, Part-1, Hisar, in the year 2014 from all the eligible and aspiring applicants, including the Advocates, who were entitled for allotment under 5% quota, as per the Policy. The petitioner, being eligible, applied for allotment, and being successful in the draw of lots, was allotted plot No.904-P, Sector-33, Part-I, Hisar, on 07.02.2014 (P-8). However, vide communication dated 21.11.2014 (P-9), the authorities required the petitioner to submit a certificate of enrollment with Bar Council of Punjab and Haryana within 15 days. And in response thereto, vide letter (P-10), he clarified that, in fact, he was enrolled with the State Bar Council of Madhya Pradesh in November, 1998, and later shifted to Hisar in September, 2000. Further, in terms of Section 30 of the Advocates Act, 1961, every Advocate, whose name was entered in the State roll, was entitled to practice throughout the territories to which the Act applied. Hence, there was hardly any occasion for the petitioner to seek transfer of his enrollment from one State Bar Council to the other. Accordingly, he prayed for issuance of a regular letter of allotment. However, vide impugned order dated 08.01.2015 (P-11), the authorities, in reference to clause (a) of the eligibility conditions set out in the brochure, concluded that the petitioner being ineligible, was not entitled for allotment under the Advocate quota.

Being aggrieved, he represented to the Chief Administrator, HUDA. But, vide communication dated 15.01.2016 (P-14), citing similar reasons, he was informed that he was not entitled for any such allotment under the Policy. Whereafter, he continued to visit the office of the respondent authorities, for each time he was verbally assured that his case was under consideration of the higher authorities. So much so, vide memo dated 08.02.2021 (P-15), petitioner was informed that Rs.18,10,819/- were outstanding against him, which he was required to deposit within 15 days. However, the online portal did not accept the payment. Accordingly, it was urged that the impugned order, as also **clause 2 (a)** of the Policy, which required that a Lawyer, who seeks allotment under the quota, should be registered with the Bar Council of Punjab and Haryana High Court for, at least, one year on the date of submitting his/her application, is apparently erroneous, arbitrary and unconstitutional.

4. We have heard learned counsel for the petitioner and perused the records.

5. In context of the limited issue, that arises for our consideration, we consider it expedient to refer to **clause 2 (a)** of the Policy:-

“The applicant must be a lawyer practicing in that Urban Estate, where he or she applies for a plot. Further, the applicant should be a member of the Bar Association of the District/Sub Division comprising that Urban Estate and registered with the Bar Council of Punjab and Haryana High Court for at least one year on the date of submitting his or her application for the allotment of a plot under the policy.”

6. Concededly, contrary to the requirement of the clause, referred to above, the petitioner was enrolled with the State Bar Council of Madhya Pradesh. Thus, he was not even eligible to seek allotment, in terms of the Policy. Significantly, for the reasons best known to the petitioner, the **advertisement** or even the **brochure**, pursuant where to he had sought allotment under the Advocate quota, is not even appended with the petition. Which, to our mind, would have crystallized the position further. It would be apposite, at this stage, to even refer to **clause 2 (e)** of the Policy:-

“The applicant shall be required to submit an affidavit alongwith his or her application in terms & condition no. a, b, c, and d above.”

7. In the absence of any specific averments that petitioner, in terms of **clause 2 (e)**, had submitted the required affidavit, along with his application, the presumption that permeates the record is that no such affidavit was submitted. For, had the petitioner filed the affidavit clarifying that he was enrolled with the State Bar Council of Madhya Pradesh, the authorities would not have even entertained his application for draw of lots. Further, his claim that since he was successful in the draw, he was allotted a residential plot No.904-P, Sector-33, Part-I, Hisar, is apparently misconceived. A bare analysis of the alleged letter of allotment dated 07.02.2014 (P-8) and communication dated 21.11.2014 (P-9), shows, in no uncertain terms, that the petitioner was merely successful in the draw of lots. No regular letter of allotment was ever issued in his favour. In fact, vide the alleged allotment letter dated 07.02.2014 (P-8), he was specifically required to furnish a certificate of registration with the Bar Council of Punjab and Haryana, in terms of

clause 2 (a) of the Policy. Which, the petitioner concededly, for obvious reasons, failed to furnish. Thus, in the given circumstances, the only and the inevitable option before the authorities, was to reject his claim.

8. *Prima facie*, the impugned clause appears to be in furtherance of the object sought to be achieved and is based on a reasonable differentia between those who have been provided the benefit under the said clause and the others who have been left out. Upon due analysis of the assertions set out in the petition, we are impelled to record that even the basic foundation to demonstrate, as to how the impugned clause is arbitrary, irrational and unconstitutional, has not been laid. Likewise, upon being repeatedly asked, learned counsel for the petitioner failed to indicate or show, as to how and on what basis, the impugned clause could be held to be invalid. It would be apposite, at this juncture, to refer to the decision of the Supreme Court in **V.S. Rice and Oil Mills Vs. State of Andhra Pradesh, AIR 1964 SC 1781:**

“This Court has repeatedly pointed out that when a citizen wants to challenge the validity of any statute on the ground that it contravenes Art. 14, specific, clear and unambiguous allegations must be made in that behalf and it must be shown that the impugned statute is based on discrimination and that such discrimination is not referable to any classification which is rational and which has nexus with the object intended to be achieved by the said statute.”

9. Likewise, it would be expedient to refer to certain observations recorded in **Amrit Banaspati Co. Ltd. Vs. Union of India and others, (1995) 3 SCC 335:**

“... the allegations regarding the violation of constitutional provision should be specific, clear and

unambiguous and should give relevant particulars, and the burden is on the person who impeaches the law as violative of constitutional guarantee to show that the particular provision is infirm for all or any of the reasons stated by him.”

10. In so far as the reference to Section 30 of the Act of 1961 is concerned, as observed even by the Chief Administrator, the provision only entitles an Advocate, whose name is entered in the State roll, to practice, as of right, throughout the territories to which the Act applies. We wonder, as to how, in the given circumstances, the said provision would confer any right on the petitioner to claim allotment of a residential plot/site, in terms of the Policy (P-6). We are also reminded to point out, at this stage, that post rejection of his representation, vide order dated 15.01.2016, the petitioner accepted the position. And resultantly, the said order attained finality. Thus, the petition at hand, having been filed nearly after eight years of the said order, apparently lacks bonafides and is speculative in nature. Besides that, it suffers from gross, inordinate and unexplained delay.

11. The argument that even post rejection of the claim of the petitioner, he continued to visit the office of the respondent authorities, and subsequently, vide communication dated 08.02.2021, he was even asked to clear the outstanding dues amounting to Rs.18,10,819/- cannot be countenanced either. Once the claim of the petitioner was rejected vide order dated 08.01.2015, and thereafter, even the Chief Administrator, vide communication dated 15.01.2016, rejected his representation, it cannot be fathomed that petitioner still continued to approach the authorities for allotment. And, as regards the

communication/memo dated 08.02.2021 (*ibid*), as to how such a letter could even be issued after over five years of rejection of his claim by any official of the Estate Office, Hisar, *prima facie*, reflects on the **veracity** of the document. And we rest the matter at that. Nothing is stated either, as to why the petitioner, even after receipt of the said letter, chose to remain quiet for nearly three years.

12. Thus, in the given circumstances, we are dissuaded to interfere with the impugned order. The petition, being bereft of merits, is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

26.02.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No