

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

1. RSA-1820-1995 (O&M)
Reserved on :-11.11.2025
Pronounced on:-17.11.2025.
Date uploaded on:-18.11.2025

The Amritsar Improvement Trust, Amritsar

... Appellant

Versus

Manjit Singh and Others

... Respondents

2 RSA-2395-1998 (O&M)

The Amritsar Improvement Trust, Amritsar and another

... Appellants

Versus

Dr. P.C. Arora

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

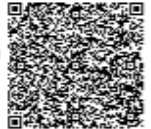
Mr. Kushagra Mahajan, Advocate
for the appellant(s).

Mr. Sumeet Mahajan, Senior Advocate with
Mr. Shrey Sachdeva, Advocate for
respondents No. to 3 in **RSA-1820-1995**.

Mr. Prateek Mahajan, Advocate and
Ms. Perna Malhotra, Advocate for
respondent in **RSA-2395-1998**.

VIRINDER AGGARWAL, J.

1. This consolidated judgment governs the adjudication of the
captioned Regular Second Appeals (for short to be referred as “RSAs”), each



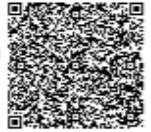
arising from an identical factual and legal matrix. As the parties are common, the impugned judgments and decrees are coextensive, and learned counsel for the respective sides have consented to joint disposal, these appeals are adjudicated together in the interest of judicial economy, consistency of precedent, and procedural efficiency.

2. At the instance of learned counsel appearing for both sides, the factual matrix, for the purpose of this composite adjudication, has been distilled from the records of both connected appeals so as to present a complete and accurate account of the material circumstances. Although the issues arising in each appeal are distinct, the facts, as delineated herein, are adopted from both matters and shall collectively constitute the representative factual foundation for the determination of the present proceedings.

3. The appellants/defendants, in both the captioned RSAs, have invoked the appellate jurisdiction of this Court assailing the concurrent judgments and decrees rendered by the learned Courts below. Through these appeals, the appellants seek judicial scrutiny and correction of the findings, reasoning, and operative directions embodied in the impugned decisions, contending that the subordinate Courts failed to appreciate the evidence on record and to apply the governing principles of law in their proper perspective. The appellants thus urge this Court to exercise its revisory and corrective jurisdiction for setting aside or modifying the impugned decrees to the extent they are alleged to be legally unsustainable or vitiated by material irregularity or error apparent on the face of the record.

RSA-1820-1995

4. A concise yet comprehensive exposition of the essential facts giving rise to both appeals is delineated hereinbelow. The ensuing narrative

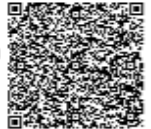


constitutes a precise and judicious synthesis of all material circumstances relevant to the adjudication of the present appellate proceedings, ensuring that the factual substratum is articulated with utmost clarity, coherence, and legal precision are as under:-

“The plaintiffs have instituted the present suit seeking a decree of permanent prohibitory injunction restraining the defendant-authority, its officers, agents, or any person acting under its instructions, from allotting, transferring, or otherwise alienating the plots No. B/99, 4/107, and A/129, situated within the duly sanctioned Ajnala Road Development Scheme, which was conceived, framed, and implemented by the defendant under the provisions of the Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules, 1975.

It is specifically pleaded that the said plots have been validly allotted to the plaintiffs Nos. 1, 2, and 3 respectively, in accordance with the approved scheme and applicable statutory rules. The plaintiffs further seek a decree of mandatory injunction directing the defendant to execute formal agreements in Form ‘D’ with each of the plaintiffs in respect of their respective allotted plots, thereby recognizing and effectuating their lawful entitlement arising from such allotment. Hence the suit.”

5. Pursuant to service of summons of the civil suit, the defendants appeared and contested the suit by filing written statement, in which it is asserted that the Ajnala Road Development Scheme was duly framed and



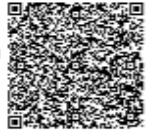
Improvement Act, 1922, and that allotments under the scheme were to be made strictly in accordance with the Rules framed under Section 73 thereof. The plaintiffs, it was pleaded, were only *recommended* for plots under the Government's discretionary quota, which required specific governmental approval. Vide Memo No. 5037-3CII-80/7036 dated September 1980, the Government rejected all such recommendations made by former Chairmen of Improvement Trusts, including those concerning the plaintiffs. The defendants contended that the sums deposited constituted earnest money only, as no valid allotment existed, and that no obligation arose to execute agreements in Form 'D' since the alleged allotments stood cancelled by competent authority.

6. The respondents/plaintiffs filed a replication wherein the material averments of the plaint were reiterated and reaffirmed, while the assertions and defenses raised by the appellants/respondents were specifically traversed. Upon consideration of the pleadings and documents on record, the Civil Court framed the following issues for adjudication, with a view to comprehensively determining the respective claims and defenses arising in the present matter:-

1. Whether the plaintiffs were allotted plots NO. B-99, 107 and A-129 by the defendant, OPP.
2. Whether the allotment made to the plaintiff has been cancelled? OPD.
3. Whether the plaintiff is entitled to the injunction as prayed for? OPD.
4. Relief.

RSA-2395-1998

7. The narrative represents a careful distillation of the circumstances materially relevant to the issues presently before this

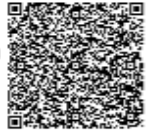


appellate forum, ensuring that the factual background is presented with both precision and adequate comprehensiveness: -

“The plaintiff has instituted the present suit seeking a decree of permanent prohibitory injunction restraining the defendants, their servants, agents, representatives, or any person claiming through or under them, from allotting, alienating, or otherwise transferring Plot No. 51-A measuring 500 square yards, comprised within the duly sanctioned Ajnala Road Development Scheme, to any person other than the plaintiff, to whom the said plot already stands validly allotted in accordance with law.

The plaintiff further seeks a decree of mandatory injunction directing the defendants to execute and register a formal agreement of sale in Form ‘D’, or in any other form as prescribed under the relevant statutory provisions, in favour of the plaintiff in recognition and enforcement of the said allotment.

Additionally, the plaintiff prays for a declaration that the purported cancellation of the aforesaid allotment by the Amritsar Improvement Trust, Amritsar, is illegal, void ab initio, arbitrary, and ultra vires the provisions of the Punjab Town Improvement Act, 1922, the Rules framed thereunder, and Articles 14 and 300-A of the Constitution of India, being in derogation of the plaintiff’s vested and lawful rights. Hence the suit.”

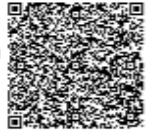


8. Upon service of summons, the defendants entered appearance and filed their written statement, wherein they contested the maintainability of the suit, raising preliminary objections that no notice under Section 98 of the Punjab Town Improvement Act, 1922 had been served, that the suit had not been instituted through a competent person, and that it was improperly valued for purposes of court-fee and jurisdiction.

8.1. On merits, the defendants categorically denied the alleged deposit of ₹2,000/- and the existence of any valid or enforceable contract with the plaintiff. It was, however, admitted that the Punjab Government, vide letter dated 25.07.1980, had directed cancellation of certain allotments, including that of the plaintiff. The defendants maintained that no final or approved allotment ever came into existence, as the same was subject to prior Government sanction, which was never accorded. All remaining allegations were denied, and dismissal of the suit was sought.

9. The respondents/plaintiffs filed a replication wherein the material averments of the plaint were reiterated and reaffirmed, while the assertions and defenses raised by the appellants/respondents were specifically traversed. Upon consideration of the pleadings and documents on record, the Civil Court framed the following issues for adjudication, with a view to comprehensively determining the respective claims and defenses arising in the present matter:-

1. Whether the suit is not maintainable in the present from? OPD.
2. Whether the suit is bad for want of notice u/s 98 of the Town Improvement Act?OPD.
3. Whether the plaint has been filed and signed also verified by duly authorised person if not its effect ?OPD.
4. Whether the plaintiff is entitled to the injunction as prayed for? OPD.



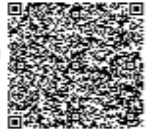
5. Relief.

10. Both parties were granted full and effective opportunities to adduce oral and documentary evidence in substantiation of their respective claims and defences. Upon culmination of the trial proceedings, and after due consideration of the pleadings, evidence, and arguments advanced by learned counsel, the learned Additional Senior Sub Judge, Amritsar, as well as the learned Civil Judge (Senior Division), Amritsar, decreed the respective suits in favour of the respondents/plaintiffs.

10.1. Aggrieved thereby, the appellants/defendants preferred statutory first appeals before the learned Additional District Judge, Amritsar. The learned First Appellate Court, upon a comprehensive reappraisal of the evidence and findings of the Trial Court, affirmed the decrees and dismissed the appeals, thereby rendering concurrent findings on all material issues.

11. Assailing the legality, propriety, and correctness of the concurrent judgments and decrees passed by both Courts below, the appellants/defendants have instituted the present Regular Second Appeals, which, upon preliminary scrutiny, were duly admitted to regular hearing. Pursuant to notice, the respondents entered appearance through their learned counsel and actively contested the appeals. The complete lower Court record was accordingly summoned, examined and placed before this Court for an exhaustive, reasoned, and judicious adjudication on the issues arising for consideration.

12. The appeal gives rise to the following “*quaestio juris substantialis*” for determination by this Court:-

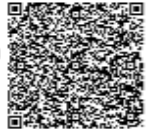


- i. *Whether the suit filed by the respondent-plaintiff is barred by res-judicata.?*
- ii. *Whether the allotment of residential plots under an Improvement Trust Scheme through a discretionary quota is permissible?*

13. I have heard learned counsel for the appellants in their respective Regular Second Appeals and carefully considered their submissions in conjunction with the pleadings, evidence, and the concurrent findings recorded by the Courts below. The entire record has been meticulously examined to determine whether the impugned judgments and decrees suffer from any jurisdictional error, legal infirmity, or perversity warranting the exercise of this Court's appellate corrective jurisdiction.

13.1. Learned counsel for the appellants contended that both the learned Trial and First Appellate Courts failed to appreciate that the suit instituted by the respondents/plaintiffs is barred by res judicata, as the petitioners had previously filed Civil Writ Petitions Nos. 5036, 4545, and 5037 of 1982 against the appellant-Trust, all of which were dismissed on merits at the threshold. It is submitted that, notwithstanding the existence of these prior adjudications, the Courts below erred in entertaining the suit, thereby committing a serious legal misstep.

14. Learned counsel for the respondents/plaintiffs, on the other hand, contended that the Courts below have correctly held that the suit is maintainable and is not barred by the doctrine of res judicata. It was submitted that the applicability of res judicata involves a mixed question of law and fact, which must be specifically pleaded and substantiated with



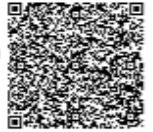
evidence. In the present case, no such pleading or proof was forthcoming from the appellant-defendant.

14.1. It was further submitted that the appellant–defendant had, before the First Appellate Court, moved an application seeking amendment of the written statement for incorporating a plea of *res judicata*. The Appellate Court, upon due consideration, expressly declined the said request. That order, having not been assailed by the appellant–defendant before any higher forum, has since attained finality.

14.2. It was additionally contended that the earlier writ petitions instituted by the appellant/defendant were dismissed *in limine*, without any adjudication on the merits of the substantive issues in dispute. A dismissal at the threshold, unaccompanied by a reasoned determination, does not give rise to any bar of *res judicata*, as the principle applies only where the matter has been “heard and finally decided” by a competent court. Thus, the ingredients of Section 11 CPC remain wholly unfulfilled. In the absence of proper pleadings, requisite foundation, or proof, *res judicata* cannot be invoked by mere assertion. The plea, being unpleaded, unsubstantiated, and legally misconceived, cannot preclude the present proceedings. The Courts below, therefore, acted within the bounds of law in examining and deciding the controversy on its merits, unimpeded by any such alleged bar.

14.3. A perusal of the impugned judgments unmistakably reveals that **CWP-2859-1986** was disposed of *in limine*; however, the Division Bench, while declining interference at the threshold, did record reasons in support of its conclusion. The relevant portion of the order dated 29.05.1986, which

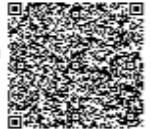
Encapsulates the rationale adopted by the Court, reads as under:-



“The names of the petitioners were recommended to the State Government by Improvement Trust, Amritsar for allotment of residential sites of reserve price. The recommendations were rejected on the ground that the trust had arbitrarily picked up the petitioners without inviting applications from all eligible persons. The recommendations were thus rejected for valid reasons. The Ld. counsel for the petitioners, however, urged that previously on similar recommendations 156 people were allotted state sites and that the State Govt. was not competent to do discriminate against the petitioners and reject the recommendations made in their favour. We are unable to accept the contention that if previously a wrong had been done, the petitioners cannot come to this court for a direction to commit the same wrong again. Consequently, there is no merit in this petition and the same is dismissed in limine.”

15. Reliance was placed on the binding precedent of the Hon’ble Supreme Court in ‘**Pujari Bai v. Madan Gopal, (1989) SC 433**’, wherein it was held that when a matter has been adjudicated on its merits and a final order rendered, any subsequent suit involving the same cause of action between the same parties is precluded by the doctrine of res judicata, and Courts are obliged to decline exercise of jurisdiction. It is thus urged that the concurrent judgments of the Courts below are vitiated by their failure to recognize the bar of res judicata and merit reconsideration, the relevant extract is reproduced as under:-

“24. It thus becomes clear that when a writ petition after contest is disposed of on merits by a speaking order, the question decided in that petition would operate as res judicata, but not a dismissal in limine or dismissal on the ground of laches or availability of alternative remedy. The High Court and the courts below, therefore,



were not right in throwing out the suit of the appellant on the ground of res judicata.”

15.1. Whereas the Division Bench of this Court in ‘**Punjab State Co-operative Bank Limited, Chandigarh and Another vs. Presiding Officer, Labour, Court. UT, Chandigarh, 1993(1) LPR 310**’ held as under:-

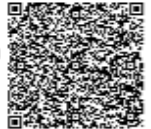
7. xxxxxx

‘If the High Court had simply dismissed the writ petition in limine without giving any reasons, it could be argued that the order was not passed on merits and the workman could have approached the Labour Court, even if no such direction was given by the High Court. There is no dispute that such a matter relating to adjudication of dispute of termination of services of a workman could be referred to the Labour Court under Section 10 of the Act. However, when different remedies.’

16. In the present case, it is evident that the appellant–defendant did not, written statement, raise any plea founded upon the doctrine of *res judicata*. The learned First Appellate Court has rightly observed that the omission to plead such a foundational objection amounts to a conscious waiver, for a party who fails to specifically assert a statutory bar in its defence is deemed, in law, to have relinquished the benefit thereof ‘*quaelibet concessio est injuria sibi*’ (a party who waives a right cannot later complain of its loss). The application subsequently filed by the appellant– defendant seeking amendment of the written statement to introduce this plea was expressly declined, and that order has attained finality.

16.1. In these circumstances, and in the absence of any averment or issue relatable to *res judicata*, the learned First Appellate Court has rightly

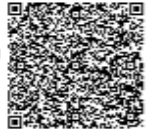
concluded that the suit cannot be held to be barred under Section 11 CPC.



The doctrine of *res judicata* is not attracted unless it is expressly pleaded, duly proved, and affirmatively established through production of the prior pleadings, issues, and adjudication in the earlier proceedings. A mere invocation of the principle during oral submissions, without foundational pleadings or evidentiary support, is wholly insufficient to defeat the maintainability of a civil action. The conclusion reached by the learned First Appellate Court is thus firmly rooted in the well-settled principle that facts alleged must be supported by proof and warrants no interference in second appeal.

17. Turning to RSA-1820-1995, the infirmity becomes even more pronounced. In that matter, the appellant–defendant did not even file an application seeking amendment of the written statement to introduce the plea of *res judicata*. The pleadings of the earlier writ petition were never placed on record. In the absence of the foundational documents namely, the copy of the writ petition, the issues raised therein, and the precise nature of the adjudication no Court can, merely on the basis of the final order, presume that the matter directly and substantially in issue in the present suit was also directly and substantially in issue in the earlier writ proceedings.

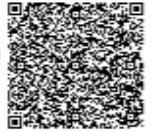
18. Learned counsel for the appellant–Improvement Trust has strenuously contended that both the Courts below committed a grave jurisdictional error in decreeing the suits, despite the settled legal position that allotment of residential plots under a discretionary quota is impermissible in law. It is argued that the legal position on this issue is no longer *res integra*, the Full Bench of this Court in **Anil Sabharwal v. State of Haryana, 1997(3) RCR (Civil) 260** having categorically held that allotments made under discretionary quota are unconstitutional and void.



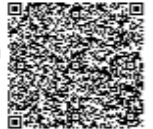
Reliance has also been placed upon **Dr. Amar Singh and others v. State of Punjab and another, 2003(4) RCR (Civil) 146**, and the recent decision in **Gurdev Singh Sehmbay v. Ludhiana Improvement Trust, 2023 NCPHHC 114991**, to canvass that any allotment made dehors the statutory scheme, on the basis of discretion, is unsustainable. Thus, according to the appellant, the allotments in favour of the respondents/plaintiffs are legally indefensible and ought to have been annulled.

18.1. Conversely, learned counsel for the respondents/plaintiffs has supported the concurrent findings of the Courts below, contending that the discretionary quota allotments in question stand protected in view of the judgments of this Court whereby the blanket cancellation order issued by the State Government was itself quashed. It is urged that the cancellation of all discretionary quota allotments was struck down by this Court in *CWP-5036-1982*, *CWP-4545-1982*, and *CWP-5037-1982*, vide judgment dated 24.05.1984. In light of the said pronouncement, the Courts below rightly concluded that once the State's omnibus cancellation order had been set aside, the respondents/plaintiffs were entitled to the relief claimed and their allotments could not be invalidated on the basis of the cancelled order. Hence, no infirmity can be attributed to the concurrent findings recorded by the Courts below.

18.2. I have gone through the record minutely, Full Bench of this Court has quashed all such discretionary allotments in Full Bench decision on **Dr. Amar Singh's case (supra)**, later followed by learned Single Bench of this Court in **Gurdev Singh Sehmbay's case (supra)**, relevant portion of



“12. A perusal of Rules 8 and 12 of the Rules clearly shows that residential plots and multi-storeyed houses are to be sold either by draw of lots or by auction. An exception to this general rule is made under Rule 4 of the Rules which provides for reservation of residential plots in favour of the various categories of persons. As noticed earlier, the Full Bench upheld the power of the Government to make reservations for various defined categories, and groups of persons. At the same time, it has been held that the discretion conferred upon the Chief Minister has to be in consonance with the various provisions of the Constitution of India. In other words, no absolute discretion can vest in the Government for making either reservations or allotments. The rules or the guidelines cannot lay down arbitrary standards for exercise of the discretion. The rules or the guidelines have to be well-defined, reasonable and must have a nexus with the object sought to be achieved. The reservation provided under Rule 4 of the Rules and the policy decision dated 31.1.1989 would have to satisfy the criteria of reasonableness as required by Article 14 of the Constitution of India. In Anil Subharwal's case (supra), this Court had already upheld the reservation made in the State of Haryana in favour of Freedom Fighters, Political sufferers, Defence personnel, Border Security Force Personnel etc., persons appointed to Public Service by the State Government and persons belonging to Scheduled Castes and Backward Classes. Therefore, it is not necessary to examine the constitutionality of the reservation provided in Rule 4(ii), (iii), (iv), (v) and (vi) of the Rules. Reservation made in the aforesaid provision is held to be valid and constitutional. In Anil Subharwal's case (supra), this Court took note of the land-mark decision in the case of Padfield v. Minister of Agriculture, Fishery and Food, (1968) A.C. 997 where the House of Lords rejected the theory of absolute

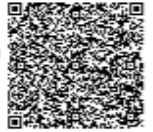


discretion. This Court also noticed the land-mark judgment of the Supreme Court in the case of S.G. Jainsinghani v. Union of India, AIR 1967 Supreme Court 1427. The observations of Ramaswami, J. which have already been noticed in Anil Subharwal's case (supra) may, however, be noticed again for the purposes of this case which are as under:-

"41.XXXXXXXXXXXXXX

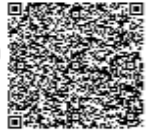
"In this context, it is important to emphasise that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law. (See Dicey "Law of the Constitution" Tenth Edn., Introduction ex.). Law has reached its finest moments', stated Douglas, J. in United States v. Wunderlich (1951-342 US 98: 9 Law Ed 113), "when it has freed man from the unlimited discretion of some ruler....Where discretion is absolute, man has always suffered. It is in this sense that the rule of law may be said to be the sworn enemy of caprice. Discretion, Lord Mansfield stated it in classic terms in the case of John Wilkes (1770-98 ER 327), 'means sound discretion guided by law. It must be governed by rule, no humour, it must not be arbitrary, vague and fanciful."

13. After considering the whole gamut of case law, the Full Bench, in Anil Subharwal's case (supra) observed as follows:-



"44. Before bringing a close to this aspect of the matter, we may refer to a recent verdict of the Supreme Court in New Delhi Public School & Ors. etc. v. HUDA and Ors., etc., JT 1996(7) S.C. 103. This decision has been rendered by the Apex Court on an appeal against the judgment of this Court in Seven Seas Educational Society & Ors. v. HUDA, (1996-2) 113 P.L.R. 17: 1996(2) RCR 40 (P&H) wherein a Division Bench of this Court quashed the allotments made by the HUDA. While upholding the decision of the Division Bench, their Lordships made reference to Section 15 of the Act and Regulations 3, 4 and 5 of the Regulations and observed:-

"..... A reading thereof, in particular Section 15(3) read with Regulation 3(c) does indicate that there are several modes of disposal of the property acquired by HUDA for public purpose. One of the modes of transfer of property as indicated in sub-section (3) of Section 15 read with sub- regulation (c) of Regulation 5 in public auction, allotment or otherwise. When public authority discharges its public duty the word "otherwise" would be construed to be consistent with the public purpose and clear and unequivocal guidelines or rules are necessary and not at the whim and fancy of the public authorities or under their garb or cloak for any extraneous consideration. It would depend upon the nature of the scheme and object of the public purpose sought to be achieved. In all cases, relevant criterion should be pre- determined by specific rules or regulations and published for the public. Therefore, the public authorities are required to make necessary specific regulations on valid guidelines to exercise their discretionary powers, otherwise, the salutary procedure would be by public auction. The Division Bench, therefore, has rightly pointed out that in the absence of such statutory regulations exercise of

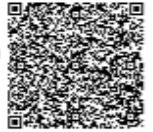


discretionary power to allot sites to private institutions or persons was not correct in law."

45. We, therefore, reject the argument of the learned counsel for the respondent that absolute power could vest in the Chief Minister to make allotment of plots according to his discretion and choice and such discretion is immune from judicial scrutiny on the touch-stone of Article 14 and other provisions of the Constitution. Nevertheless, we may reiterate that the Government's powers under Section 30(1) of the Act to give directions to the HUDA to reserve plots may be used in favour of eminent professionals, outstanding sports persons, musicians etc. as a group, provided such reservation is within the parameters, scheme and objects of the Act. In fact, the policy decision taken by the HUDA to reserve plots in favour of the Government servants, Scheduled Caste, Backward Classes, Freedom Fighters falls in this category. At the same time, it is necessary to observe that the plots reserved for professionals etc. can be allotted only after issuing advertisement of the policy framed by the Government/HUDA and allotments will have to be made keeping in view the principles laid down by the Supreme Court in New India Public School's case (supra)."

14. The reservations as contained in Rule 4 of the Rules have been justified by respondent No. 1 in the written statement as follows:-

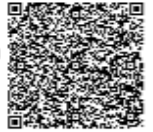
"Para 16: The contents of this para are wrong and denied. The Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983 have been framed under Section 73 of the Punjab Town Improvement Act, 1922. In Rule 4 of the Rules ibid, as reproduced in para 9 of the writ petition, reservation of plots to certain deserving category of Society viz. Members of Legislative Assembly, Members of Parliament, Freedom Fighters, Political sufferers, Defence Personnel, War Widows, Government



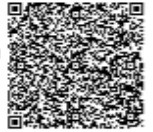
Employees, Members of Scheduled Castes and Backward Classes etc. has been provided in lieu of their services to the society and socio-economic conditions. The reservation so provided, do not in any manner affect the rights of general public for whom sufficient number of plots are reserved which are allotted through draw of lots, after inviting applications. The rules are thus balanced and transparent and are so framed so as to cater to the persons of all sections of society."

The aforesaid reasoning is akin to the reasoning which is given by the State of Haryana in Anil Subharwal's case (supra). It was rejected by this Court holding as under :-

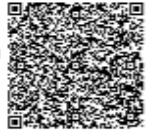
"49. The narrow issue which is now required to be considered is whether the criteria, namely, 'distinguished and needy people in all walks of life' can be treated as valid criteria. Neither the word 'distinguished' nor the word 'needy' has been defined in the Act or the rules or the regulations framed under it nor are they spelt out from the documents placed on the record of the case. In the agenda note (Annexure R2), reference has been made to some decision dated 14.7.1971 taken by the then Chief Minister recorded on the file. According to that decision, 15% plots in Sector 21, Faridabad were reserved for members of the Haryana Assembly and Members of Parliament and for allotment to certain categories of persons such as political sufferers, writers, journalists and other deserving persons. However, there is nothing on the record of this petition to show that the HUDA took a policy decision to allot plots to political sufferers, eminent writers, journalists etc. It can, thus, be said that the question whether a person is distinguished and needy for the purpose of allotment of a plot has been left to be determined at the whims of the Chief Minister. Complete absence of any guidelines for determination of the question as to who are



distinguished and needy, it is left to the sweet-will of the Chief Minister to allot a plot by treating him to be a distinguished and needy person. The criteria does not say that the applicant/prospective allottee must have distinguished himself/herself by serving the national cause or the cause of the state or he/she should have achieved distinction in the field of science, arts, sports, music, journalism, literature or the like at international, national or state level. There is no guidance as to how the Chief Minister would determine whether a person is needy or not. No criteria of income has been laid down. While making recruitment to the public services against the quota reserved for sports persons the candidate is required to possess a certificate of a particular grade level in the field of sports. Similarly for International/national/state or district level in the field of sports. Similarly for particular grade showing his achievement at the appointment on compassionate ground the criteria of family income has been evolved. No such guideline has been framed for exercise of power to allot plots under the discretionary quota. No rule or regulation has been framed and no yardstick has been laid down by following which the Chief Minister can determine that a person is distinguished and needy. All is left to the unfettered discretion of the Chief Minister. Conferment of such unbridled and unguided power is clearly against the wider interpretation accorded to the doctrine of equality embodied in Article 14 of the Constitution in *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 Supreme Court 555, *Maneka Gandhi v. Union of India*, AIR 1978 Supreme Court 597 and a host of other decisions some of which have been relied upon by the Division Bench in *Seven Seas Educational Society and others v. HUDA and others* (supra) and in *Hari Ram Singla v. State of Haryana*, 1994 P.L.J 230: 1994(1)

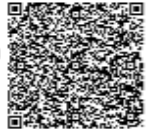


RRR 606 (P&H). The arbitrariness of the criteria is amply demonstrated from the facts of this case. As will be seen hereinafter, in none of the orders passed by the Chief Minister of allotment of plots under criteria of distinguished and needy persons. In none of the orders passed by the Principal Secretary/Special Principal Secretary/Deputy Principal Secretary/Private Secretary/Personal Assistant to the Chief Minister in the name of the latter there is a mention that plot under the discretionary quota is being allotted to the applicant by treating him to be a distinguished and needy person. Even in the application filed in majority of over 800 cases of allotments (between 1991 to March, 1996), the applicants have not stated that they are distinguished and needy persons. Rather the applications have been filed with the simple prayer that the plot be allotted to the applicant under the discretionary quota of the Chief Minister and on such application, the order has been recorded by Officer/officials concerned directing the HUDA to allot a particular plot to the applicant. This is clearly indicative of the vagueness of the criteria of 'distinguished and needy people', Taking advantage of the vague and arbitrary criteria, a vast majority of applicants who have not distinguished themselves in any walk of life have been conferred with the largesses in the form of big or small plots. In some of the cases, two or more than two plots have been allotted to the members of one family. Some of the beneficiaries of allotment under the discretionary quota own palatial houses in the cities like Delhi and Chandigarh. They have been allotted big plots of one or two kanals. Therefore, we have no hesitation to hold that the criteria incorporated in Annexure R11 is vague and arbitrary. It conferred unlimited, unguided and unbridled discretion upon the



Chief Minister to allot plots without even considering whether a person is really distinguished and needy or not."

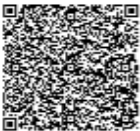
15. In the present case, written statements have been filed on behalf of the Improvement Trusts pursuant to the orders passed by this Court on 30.5.1996. The Government have also been given. Reasons for making the allotment in individual cases is not discernible either from written statement filed by the respondents or from material placed on record. In view of the law laid down by this Court in Anil Subharwal's case (supra), it would not be possible to uphold the reservation provided in Rule 4(i), (vii) and proviso 3 to the aforesaid rule. No justification is given for carving out a reservation for members of Parliament representing the State of Punjab and the Members of the Punjab Legislative Assembly. 8% of the plots of all sizes ie. 250, 300, 400 and 500 square yards are reserved for this category. This reservation has absolutely no nexus with the object sought to be achieved by the Improvement Trust Act. It is simply largesse bestowed on an individual after winning a parliamentary or State Assembly seat. This kind of reservation is abhorrent to the concept of equality enshrined under various provisions of the Constitution of India. 4% of the plots of 500 square yards only have been reserved for Non-Resident Indians. The term "Non- Resident Indians" is totally vague. No discernible reason has been assigned as to why a reservation has to be made for Non-resident Indians. No criteria has been laid down for selecting the Non-resident Indians candidate for allotment of the plot. Some of the richest people living in this country, are officially "Non-Resident Indians". Conversely the term "Non-Resident Indians" would also include some of the richest Indians living abroad. Allotment of these plots under the nomenclature of the "Non-Resident Indians" is wide open to abuse and profiteering. It



has been noticed by this Court in Anil Subharwal's case (supra) that taking advantage of the vague and arbitrary criteria i.e. distinguished and needy a vast majority of applicants had secured big or small plots for themselves. None had distinguished themselves in any walk of life; nor were they needy. Similar is the situation in the allotment of plots in Punjab. The lists attached with various written statements show that a large number of persons have been allotted plots in Urban Estates which are far away from their residential area. The list attached by PUDA shows that large number of persons have been allotted plots in various Urban Estates in Punjab, although they are clearly stated to be residents of Chandigarh, New Delhi or other large cities in Punjab. It clearly goes to show that the allotment of the plots have not been made on the basis of any discernible criteria.”

19. In view of the authoritative pronouncement of the Full Bench of this Court, which has unequivocally declared the policy of discretionary allotment of residential plots to be ultra vires the Constitution and in blatant contravention of the guarantee of equality enshrined under Article 14, the allotments made in favour of the respondents–plaintiffs cannot be sustained in the eye of law. The controversy raised herein stands fully concluded by the ratio laid down in **Dr. Amar Singh (supra)**, which has subsequently been reaffirmed by the learned Single Bench in **Gurdev Singh Sehmbay (supra)**. When the law declared by a larger Bench operates as binding precedent ‘*stare decisis et non quieta movere*’ (*To stand by decided matters and not to disturb what is settled*) the subordinate forums are duty-bound to give full effect to it.

19.1. Accordingly, the appeals preferred by the appellant-Improvement Trust deserve to be, and are hereby, allowed. As a necessary corollary, the judgments and decrees passed by both the Courts below, being contrary to the settled legal position and rendered *per incuriam*, are set aside.



20. In view of the fact that the main appeals have been finally disposed of, all pending miscellaneous application(s), if any, shall also stand disposed of accordingly, without any further orders.

21. A copy of this judgment shall be duly placed on the record of the connected matter to facilitate ready reference and to ensure its effective implementation and compliance in all consequential proceedings.

17.11.2025
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

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