
(1998) 04 P&H CK 0078
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6003 of 1995

International Cycles and Strips Ltd.

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 17-04-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 145, 166, 226
Land Acquisition Act, 1894 — Section 4, 6

Citation : (1998) 119 PLR 375 : (1998) 3 RCR(Civil) 28

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : H.L. Sibal, Arun Bakshi, Rita Kohli, Sumeet Mahajan and Manju Dwivedi, for the Appellant; R.K Chhibbar Anand Chhibbar, G.S. Grewal, A.G. and S.K. Bhanot, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

V.K. Jhanji, J.—In this petition filed by M/s International Cycles and Strips Limited, prayer made is for quashing decision dated 19.1.1995 of the Allotment Committee rejecting the application of the petitioner for allotment of industrial plot Measuring 10 acres. Allotment of plots to respondents 6 to 11 has also been called in question.

2. It is the case of the petitioner that on 24.11.1992, State of Punjab notified the policy for allotment of industrial plots. Petitioner vide application dated 22.12.1994 applied for allotment of 10 acres of undeveloped land in Phase VIII, Focal Point, Ludhiana, under the "Off the Shelf Scheme". Petitioner sent a bank draft in the sum of Rs. 6,00,000/- towards earnest money. According to the petitioner, its application form was complete in all respects, i.e. Project report and lay out plan of proposed industry was sent along with the application form. The meeting of the allotment Committee took place on 19.1.1995 under the chairmanship of Chief Secretary to Government, Punjab. In the said meeting, application of the petitioner for allotment of 10 acres of land was rejected on the

ground of non-deposit of earnest money. Petitioner's case is that although the period of 15 days as prescribed in letter dated 6.1.1995 was to expire on 21.1.1995 for the deposit of balance earnest money, yet the application of the petitioner was rejected by the Allotment Committee on 19.1.1995, i.e. before the expiry of the time granted for the deposit of balance amount of earnest money. Petitioner's case is that though his application has been rejected, but a huge parcel of land has been allotted to respondents 6 to 11. According to the petitioner, while allotting plots to respondents 6 to 11 no advertisement was issued in any newspaper. Applications were not invited from public at large and no time schedule was fixed in which applications were required to be submitted. Hence, the present writ petition inter-alia praying for quashing of decision dated 19.1.1995 of the Allotment Committee rejecting the application of the petitioner-company for allotment of industrial plot measuring 10 acres of undeveloped land for the purpose of setting up industries in Phase VIII, Focal Point, Ludhiana. Petitioner is also seeking a writ in the nature of Certiorari, quashing the allotment of undeveloped land made in favour of respondents 6 to 11.

3. On notice of the petition, six sets of written statement have been filed; one by respondents 1, 2 and 3; second by respondent No. 6; third by respondent No. 7; fourth by respondent No. 8; fifth by respondent No. 10 and sixth by respondent No. 11. Written statement on behalf of respondents 1 to 3 has been filed by Sh. D.S. Kalha, Director of Industries, Punjab. In their written statement, respondents 1 to 3 have stated that the scheme of allotment of land under "Off the Shelf did not require invitation of applications by issue of advertisement. The scheme was made public through Press Notes. The scheme was discussed in a number of Seminars organised by P.H.D. Chamber of Commerce, F.I.C.C.I. and C.I.I, in India and abroad. The Public at large was made fully aware of the scheme and Udyog Sahayak was receiving large number of applications for allotment of land under "Off-the-Shelf Scheme. The applicants were advised about the rate when they approached the Udyog Sahayak for submitting applications for allotment of land. It was not necessary to make the rates of land public. "Off-the Shelf scheme was framed by the popular Government which came to power in February, 1992. Respondents 6 to 11 also approached the Udyog Sahayak for allotment of land along with several other applicants. The Allotment Committee under "Off-the Shelf Scheme made the allotment in its meeting held on 9.3.1994 to respondents 6 to 11 along with several other allottees. So far as criteria for selection of allottees was concerned, respondents 1 to 3 have submitted that the land was allotted under "Off-the-Shelf Scheme to those entrepreneurs who were capable of implementing the proposed project on the allotted land immediately. According to respondents 1 to 3, the following criteria was adopted while considering allotment under the scheme :

"(a) Whether the project is in thrust areas;

(b) Impact on environment;

(c) Technology involved;

- (d) Export obligation undertaken;
- (e) Value addition¹,
- (f) Scope of Employment;
- (g) Import Substitution;
- (h) Qualification, experience, resourcefulness and general suitability."

Respondents 1 to 3 have denied that allotments to respondents 6 to 11 were kept as closely guarded secret. In regard to rejecting of application of petitioner, respondents 1 to 3 have submitted that the same was rejected in accordance with the rules and procedure and there is no illegality in regard to decision dated 19.1.1995. Respondent No. 6 in its written statement has averred that the land was allotted to it in the year 1989 as per the policy of the Government and on allotment, it deposited Rs. 1.26 crores as consideration of the land allotted, Respondent No. 6 has averred that on allotment, construction was started immediately when possession was delivered. Further, according to it construction work is near completion and Rs. 8 crores have already been spent on the construction work. Hot Strips Mills comprising 284 containers worth Rs. 20 crores to be installed in the factory have already been imported and are lying in the premises. Like, respondents 1 to 3, respondent No. 6 has averred that no advertisement was required to be published in the newspaper for allotment under "Off-the Shelf Scheme" as that scheme was floated with the sole object of rapid industrialization of the State. Respondent No. 6 in its additional written statement dated 19.5.1997 has averred that the State of Punjab had gone through an era of militancy which went on for many years. People's life and liberty were all in danger. The terrorism activities resulted in the death of even police officers of the highest rank. There were kidnappings for ransom. The industrialists and the people at large felt that their life and liberty were in complete danger. The situation in various industrial towns and villages became so tense that people did not venture to go out of their houses during dusk time and later. Most of the industrialists shifted their industries to some other states. There were very few big industrialists who were taking the risk and respondent No. 6 was one of them. Some of the industrialists purchased even land in Haryana and other places to start their industries since it was not clear when the circumstances would become normal. The President rule had been imposed because no democratic Government could function. It was in May, 1991 that" a notification u/s 4 of the Land Acquisition Act was issued for the acquisition of 796 acres of land for the purposes of setting up Industrial Focal Point in Phase-VIII, Ludhiana. The whole idea was that there should be persons to invest in Punjab because people from outside Punjab were quite apprehensive and afraid of setting up any industry in Ludhiana. The industrial development had completely slowed down and was almost at a standstill during the peak of militancy. People remained apprehensive that again militancy may not erupt. Slowly and slowly the militants" onslaught started decreasing for various reasons. The President

rule had continued upto April, 1992" It was during the President rule that a notice u/s 4 of the Land Acquisition (Amended) Act, 1894 was issued and in March, 1992, u/s 6, this land was acquired for the purpose of setting up industries at Focal Point, Phase-VIII, Dhandari Kalan at Ludhiana. At that time, it was thought that people might come to invest in industry yet the climate remained uncertain, and unchanged. The economic situation of Punjab had gone so bad that financial crunch was there. Much of the money was also being spent for the protection of those who were in power and those who were facing militancy. With the revival of peace which was building up slowly and slowly, it was thought under the President rule that this land be acquired for industries. It is further averred by respondent No. 6 that the setting up of Focal Point, Phase VIII at Ludhiana was during the President's regime and at that time it was also thought that it is much better to have a Focal Point for industries lest there should be haphazard growth of industries which might create more and more pollution, though their activities had almost slowed down during the militancy period. In March, 1992, elections to the Punjab Assembly were held. The Akali Party which is the largest political party in the Punjab State did not participate in the elections for reasons which were political. The Congress Party was elected unopposed and Mr. Beant Singh was appointed as Chief Minister of the State by the Governor, having been elected as the Leader of the House. He came at a stage when the conditions in Punjab were still abnormal. Danger of militancy persisted. During his regime also, militancy continued. The notification u/s 6 of the Land Acquisition Act which was issued on 18th March, 1992 would have lapsed on 17th March, 1994 if the award had not been pronounced. The whole scheme was that the notification should not lapse so that the land acquired may ultimately be used for the benefit of the State for industrialisation. The first and foremost priority of Mr. Beant Singh on assuming charge of the Chief Minister was to bring peace in the Punjab State and make its climate good so that people in the State should feel that there is no fear of any militancy. His efforts were to restore law and order. Although he took over in April, 1992, yet for about two years he continued as a political leader touring the whole State of Punjab, although had danger to his life, instilling confidence in the people of Punjab and trying to re-build the confidence amongst people in the State. When this proposal of setting up of industries in Focal Point, Phase-VIII at Ludhiana was set up, the Chief Minister passed the order that the industrialists will have to deposit the full money by 31st March, 1994. The Government of Punjab was trying its best to usher in Punjab a climate of peace and wanted that industries should develop so that employment is generated and people are kept away from indulging in militancy. On 24th November, 1992, the Government published a notification, announcing allotment policy of 1992. It was specified in the notification that 30% of the total land acquired would be of plots about the size of 2500 sq. yards which plots shall be under "Off The Shelf Scheme". It was mentioned that applications except for allotment under "Off The Shelf Scheme" will be invited by the Director of Industries, Punjab, through advertisement. In this notification, in para 7 it was provided that the person, asking for allotment

under "Off The Shelf Scheme" will have to deposit 20% of the cost of the plot along with application and after the approval of the Committee in respect of the allotment to such person who would then deposit 80% of the remaining cost within 60 days in lumpsum. Further conditions were also imposed regarding the construction and so on. Despite the industrial policy of 1992, applicants were not coming forward. It was felt necessary by the Government to frame some scheme to attract industrialists to apply under "Off The Shelf Scheme" so that money be made available. The State was having financial crisis. The Punjab Industrial and Export Corporation (P.S.I.E.C.) was actually to get this land and develop the same and then allot " to industries. The P.S.I.E.C. was not having sufficient funds to pay to the Land Acquisition Collector so that the owners whose land had been acquired could be paid the compensation due to them. The result was that the Industries Department was contacted by the Chief Minister impressing upon the Department concerned, that large scale industries who have good track record and who also continued staying in Punjab during the period Punjab was in turmoil may be asked to apply for setting up industries and a focal point already created. This exercise was done for two reasons; one, so that efforts of creation of climate of peace in Punjab may be strengthened and secondly, industries be established so that people's attention may be diverted from militancy, particularly when the establishment of industries will generate employment and also income for the State. The big industrial houses who had a good track record and who had remained in the State, made applications for allotment of industrial plots. Further, according to respondent No. 6, allotment of plots to respondents 6 to 11 was on consideration of public policy. The policy was that an effort should be made that industrial climate in the State be revived and people's confidence ensured. Respondent No. 6 has admitted that decision regarding allotment of 20 acres of undeveloped land was conveyed to it on telephone.

4. Respondent No. 7 has adopted the written statement filed by respondents 8 to 10. In addition, respondent No. 7 has stated that it took possession of land on 26.8.1994 and thereafter, it incurred an expenditure of about Rs. 700 lacs as investment on land and building and towards consultation fee paid for setting up industrial project. Respondent No. 7 has averred that it also entered into several contracts for crores of rupees for running the business at land allotted to it. Respondent No. 8 in its written statement has averred that after restoration of law and order in the State, a number of big industrial houses approached the Punjab Government for allotment of undeveloped land in Focal Point, Phase VIII, Ludhiana, as they were prepared to set up medium and large industrial units. The total area that was acquired for Focal Point, Phase-VIII, Ludhiana, was 774.62 acres. Out of this, the allotment Committee in its meeting held on 13.12.1993 had recommended allotment of 60 acres to respondent No. 11, i.e. Mahavira Spinning Group of Mills. Similarly, 100 acres were recommended in favour of respondent No. 10. M/s Nahar Industrial Enterprises Ltd. (formerly M/s Oswal Oil and Fats Limited). Respondent No. 8 has further averred that since many applications were received for allotment of big plots for setting up of

industrial units, the case was submitted to the Chief Minister for decision as a policy matter. After taking into all connected issues with regard to acquisition of land and the financial constraints being experienced by the Punjab Small Industrial and Export Corporation Limited (P.S.I.E.C.), the Chief Minister desired that after retaining a suitable chunk of land for development by P.S.I.E.C. for the benefit of smaller units the remaining land be allotted to larger industrial unit/export house with certain stipulations. Further, according to respondent No. 8, Allotment committee in its meeting held on 9.3.1994 decided to allot undeveloped land in Focal Point, Phase-VIII, Ludhiana, to respondents 6 to 11 for setting up of industrial units. According to it, land was allotted to respondents 6 to 11 on the following terms and conditions :

- "a) The allottees must pay full price/cost of land by 31st March, 1994.
- b) They must develop and put to industrial use the land allotted to them within three years.
- c) They must give a guarantee to the State Government that they will be responsible for making payments of any enhancement in compensation, made by the Courts and shall always pay the same as per the orders of the Courts.
- d) They must give an undertaking that they shall pay all external development charges to the P.S.I.E.C.
- e) They must also undertake that they will ensure proper industrial development of the area allotted to them."

Respondent No. 8 has also stated that subsequently the Government submitted an estimate for the construction of roads, sewers, street light and landscaping (common facility) in Phase-VIII, Dhandari Kalan, Ludhiana. The estimated cost was determined at Rs. 12.13 crores. The Director of Industries, Punjab, vide letter dated 9.10.1996 informed respondents 6 to 11 the proportionate cost for construction of roads, sewers, street lights and land scaping (common facility). Respondents 6 to 11 and some other allottees discussed the cost factor with the Secretary, Department of Industries, Punjab, on 22.10.1996. It was submitted that the estimate of Rs. 12.13 crores was on the higher side. Respondents 6 to 11 undertook to get the same work done at their own at a much lower cost. On the basis of discussion, the Director of Industries, Punjab, issued letter dated 7.11.1996 enclosing therewith the minutes of the meeting dated 22.10.1996 whereby respondents 6 to 11 were permitted to get the work done at their own, On the similar lines are the written statements filed on behalf of respondents 10 and 11.

Petitioner has filed replications to the written statements filed by respondents 6, 7, 8, 10 and 11 thereby denying the averments made in the written statement and reiterating those in the writ petition.

6. It is contended by Mr. Sumeet Mahajan, Advocate, counsel for petitioner, that allotment of undeveloped land under "Off The Shelf Scheme" was made in a

most arbitrary manner and for extraneous considerations. Counsel contended and for extraneous considerations. Counsel contended that it was not made known to the public in general that undeveloped land is available for allotment. Neither the rate nor the time-frame was fixed for allotment of undeveloped land. A few chosen individuals, especially respondents 6 to 11 were made eligible for extraneous consideration. It is contended that the State did not adopt any uniform policy for allotment of undeveloped land. It is further contended that although to respondents 6 to 11, land has been allotted at the rate of Rs. 126/- per sq. yard, but from the petitioner the price demanded is Rs. 350/- per sq. yard. It is contended that allotment of land to respondents 6 to 11 without adopting any procedure in law is patently illegal, arbitrary, unjust, improper and violative of Article 14 of the Constitution of India and contrary to law laid down in various judgments of this Court and the Hon"ble Supreme Court of India. Against this, it has been contended by learned counsel for respondents 6 to 11 that allotment of land under "Off The Shelf Scheme" did not require inviting of applications by issue of advertisement. It is contended that land was allotted to respondents 6 to 11 as it was found by the Allotment Committee that they were capable of implementing the proposed projects on the allotted land immediately. According to Mr. H.L. Sibal, Sr. Advocate, there is no material on record to show that allotment of land to respondents 6 to 11 is arbitrary or malarious. Counsel contended that respondents 6 to 11 are known industries and the land has been allotted to them as it was found by the Government that setting up of industries by them would be greatly beneficial to the people of the area in general and small industries in particular. It is also contended that even if it is found that there is a small diversion or deviation from the policy declared vide Annexure P-1, even then that cannot be a ground for declaring that allotment of land to respondents 6 to 11 was for extraneous considerations as the Government was competent to revise its policy in public interest.

7. Counsel heard at length and record perused.

8. In *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, , their Lordships of the Supreme Court have held that "the Government in a welfare State is the regulator and dispenser of special services and provider of a large number of benefits, including jobs contacts, licences, quotas, mineral rights etc. The Government pours forth wealth, money, benefits, services, contracts, quotas and licences. The valuables dispensed by Government take many forms, but they all share one characteristic. They are steadily taking the place of traditional forms of wealth. These valuables which derive from relationships to Government are of many kinds. They comprise social security benefits, cash grants for political sufferers and the whole scheme of State and local authorities. Licences are required before one can engage in many kinds of businesses or work. The power of giving licences means power to withhold them and this gives control to the Government or to the agents of Government on the lives of many people. Many individuals and many more businesses enjoy largess in the form of Government contracts. These contracts often resemble subsidies.

It is virtually impossible to lose money on them and many enterprises are set up primarily to do business with Government. Government owns and controls hundreds of acres of public land valuable for mining and other purposes. These resources are available for utilisation by private corporations and individuals by way of lease or licence. All these mean growth in the Government largess and with the increasing magnitude and range of governmental functions as we move closer to a welfare State, more and more of our wealth consists of these new forms. Some of these forms of wealth may be in the nature of legal rights but the large majority of them are in the nature of privileges. But on that account, can it be said that they do not enjoy any legal protection? Can they be regarded as gratuity furnished by the State so that the State may withhold, grant or revoke it at its pleasure? Is the position of the Government in this respect the same as that of a private giver? We do not think so. The law has not been to recognise the importance of this new kind of wealth and the need to protect individual interest in it and with that end in view, it has developed new forms of protection. Some interests in Government largess, formerly regarded as privileges, have been recognised as rights while others have been given legal protection not only by forging procedural safeguards but also by confining/structuring and checking Government discretion in the matter of grant of such largess. The discretion of the Government has been held to be not unlimited in that the Government cannot give or withhold largess in its arbitrary discretion or at its sweet will. It is insisted, as pointed out by Professor Reich in an especially stimulating article on "The New Property" in 73 Yale Law Journal 733, "that Government action be based on standards that are not arbitrary or unauthorised." The Government cannot be permitted to say that it will give jobs or enter into contracts or issue quotas or licences only in favour of those having grey hair or belonging to a particular political party or professing a particular religious faith. The Government is still the Government when it acts in the matter of granting largess and it cannot act arbitrarily. It does not stand in the same position as a private individual." Their Lordships of the Supreme Court concurred with the observations of Mathew, J, in *V. Punnath Thomas v. State of Kerala*, AIR 1969 Kerala 81 (F.B.) that "the Government is not and should not be as free as an individual in selecting its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal." (Emphasis mine).

9. In *LIC of India and Another Vs. Consumer Education and Research center and Others*, , the Supreme Court held that "every action of the public authority or the person acting in public interest or any act that gives rise to public element, should be guided by public interest. It is the exercise of the public power or action hedged with public element (sic that) becomes open to challenge. If it is shown that the exercise of the power is arbitrary, unjust and unfair, it should be no answer for the State, instrumentality, public authority or person whose acts have the insignia of public element to say that their actions are in the field of

private law and they are free to prescribe any conditions or limitations in their actions as private citizens, simplicitor do in the field of private law. Its actions must be based on some rational and relevant principles. It must not be guided by irrational and irrelevant considerations. Every administrative decision must be hedged by reasons." In *Common Cause, a Registered Society v. Union of India and Ors.* (1996) 6 SCC530, the Supreme Court reiterated that "the Government today - in a welfare State-provides large number of benefits to the citizens. It distributes wealth in the form of allotment of plots, contracts, quotas and licences etc. Government distributes largenesses in various forms. A Minister who is the executive head of the department concerned distributes these benefits and largenesses. He is elected by the People and is elevated to a position where he deal with the people's property in a fair and just manner. He cannot commit breach of the trust reposed in him by the people." The Supreme Court further held that "while Article 14 permits a reasonable classification having a rational nexus to the objective sought to be achieved, it does not permit the power to pick and choose arbitrarily out of several persons falling in the same category. A transparent and objective criteria/procedure has to be evolved so that the choice among the members belonging to the same class or category is based on reasons, fair play and non-arbitrariness. It is essential to lay down as a matter of policy as to how preferences would be assigned between two persons falling in the same category. If there are two eminent sportsmen in distress and only one petrol pump is available, there should be clear, transparent and objective criteria/procedure to indicate who out of the two is to be preferred. Lack of transparency in the system promotes nepotism and arbitrariness. It is absolutely essential that the entire system should be transparent right from the stage of calling for the applications upto the stage of passing the orders of allotment. The names of the allottees, the orders and the reasons for allotment should be available for public knowledge and scrutiny."

10. In the light of the aforesaid principles settled by the Hon"ble Supreme Court, I have been called upon to determine the legality of the action of the Allotment Committee in matter of allotment of industrial plots to respondents 6 to 11 and denial of the same to the petitioner.

11. In the instant case, it is the admitted case of the parties that the State of Punjab vide notification dated 24.11.1992, Annexures P-1, announced industrial policy for the year 1992. Policy was announced with a view to boost the growth of industry and meet the demand of entrepreneurs for developed plots. A comprehensive policy for allotment of plots in the already developed area and the new areas to be developed for industrial purposes in the form of Focal Points, growth centre, industrial establishments developed by any Agency of the State Government Government was evolved. 30 per cent of the plots above the size of 2500 sq. yds. were reserved for allotment under "Off The Shelf Scheme" and 5 per cent were reserved for allotment to Non-resident Indians and 100 per cent Export Oriental units. 60 per cent plots above the size of 2500 sq. yards and 90 per cent of other plots were meant for allotment in general category. 5 per cent

plots were reserved for discretionary allotment by the Chief Minister. Relevant part of the policy reads as under :-

"3. Procedure for inviting applications :-

3.1. Applications except for allotment under "Off The Shelf Scheme" and discretionary allotment by the Chief Minister, will be invited by the Director of Industries, Punjab through advertisements in the press.

3.2. The application would be received directly by the respective Deptt./Agencies which developed the Industrial Focal Points, Industrial Areas and Growth Centres etc.

3.3. These Deptts./Agencies would do the entire secretarial work such as scrutiny of applications, placing proposals before the Sub Group/Committees, issuance of allotment letters etc.

4. Earnest money :

Earnest money will be submitted along with application. 20 per cent of the cost of the plot for Ludhiana, Mohali, Dearabassi, Jalandhar, Patiala and Rajpura and 10 per cent for other focal points/Industrial Areas.

5. Scrutiny of applications :-

5.1 : A sub group will scrutinise the application on behalf of the allotment Committee.

5.2 : The sub-group will consist of the following officers :

- i) Industrial Adviser-cum-Addl. Director of Industries,
- ii) Representative of M.D., P.S.I.D.C.
- iii) Representation of M.D., P.F.C.
- iv) Concerned Joint Director/Deputy Director from the Directorate of Industries.
- v) Nominee of the Deptt./agency responsible for the development of industrial areas/focal points.

Convenor:-

The sub-group may co-opt any other person considered necessary.

5.3 : The sub-group will examine the applications keeping in view the following:-

- a) Viability of the project.
- b) Impact of environment.
- c) Technology involved.
- d) Export obligation undertaken, c) Value addition.

f) Scope of employment.

g) Import substitution.

h) Qualification, experience, resource fullness and suitability.

5.4 : The group will make its recommendations to the Allotment Committee having regard to the requirement of land and eligibility of applicant.

6. Allotment Committee;

6.1 : Allotment of plots except "Off the Shelf category and discretionary category by CM. shall be made by an Allotment Committee consisting of the following officers:-

i) Director of Industries, Punjab - Chairman,

ii) M.D. P.S.I.B.C. iii) M.D. P.S.I.D.C. iv) M.D. P.F.C.

v) Industrial Adviser-cum-Addl. Director of Industries. vi) Nominee of the Deptt/ Agency responsible for the development of Industrial area/ Industrial Focal Point etc.

6.2 : The decision of the Allotment Committee on application for allotment of plots shall be final and no appeal shall be lie against it.

6.3 ; The allotment committee would meet as and when required but at least once in two months.

6.4 : It would devise its own procedures for conducting its business.

7. Allotment of plots under "Off the Shelf Scheme".

7.1 The applications under "Off-the Shelf Scheme" would be received and scrutinized by Udyog Sahayak.

7.2 : Applications will be placed before the Committee under the chairmanship of the Chief Secretary to Government of Punjab with the following members:-

a) Secretary Industries.

b) Director of Industries, Punjab.

c) Managing Director, Punjab State Indl. Dev. Corpn.

d) Managing Director, Punjab Small Ind. And Export Corpn.

The Committee may coopt any other person, if it considers necessary.

7.3 : The allotment of plots under the "Off the Shelf Scheme" shall be subject to the following conditions :-

i) The applicant shall be required to deposit the earnest money equivalent to 20 of the cost of the plot along with the applications.

ii.) After the approval of the Committee, a letter of offer shall be issued by the developing agency in favour of the applicant and he/she shall be required to deposit 80 per cent of the remaining cost of the plot in lumpsum within 60 days.

iii) After the applicant has made full payment, allotment shall be made in his/her favour.

iv) The applicant shall be required to take the following steps within one year from the date of allotment of plots:-

- a) Start the construction of the factory building.
- b) Place firm orders for the purchase of plant and machinery.
- c) Have loan application appraised from the financial institution.
- d) Make arrangements for power connection.

7.4 : In the event of an applicant failing to take the effective steps indicated in the preceding para within one year of the allotment of the plot, allotment shall be liable to be cancelled, consequent upon which the earnest money deposited shall stand forfeited and the remaining cost of the plot shall be refunded to the applicant. The Committee, however, in deserving cases may consider applying extension in time for taking the above effective steps for a maximum period of additional one year."

As seen, industrial policy for the year 1992 prescribed a detailed procedure for inviting applications, submission and project reports by the Allotment Committee keeping in view the viability of the project, impact on environment, technology involved, export obligation, scope of employment etc. it also prescribed that applications under "Off The Shelf Scheme" would be received and scrutinised by Udyog Sahayak and shall be placed before the committee consisting of Chief Secretary to Government of Punjab, Secretary Industries, Director Industries, Managing Director, Punjab State Industrial Development Corporation and Managing Director, Punjab Small Industries and Export Corporation. Allotment Committee while considering allotment of industrial plots to M/s Oswal Oil and Fats Limited and M/s Vardhman Spinning and Weaving Mills, respondents 10 and 11 respectively, gave a complete go-bye to the procedure prescribed under the industrial policy for the year 1992. A reading of the proceedings of the Allotment Committee held on 13.12.1993 for allotment of plot under "Off The Shelf Scheme" under the chairmanship of Sh. Ajit Singh Chatha, Chief Secretary, Punjab, indicates that no objective criteria or procedure was evolved so as to rule out arbitrariness or favoritism in allotting plots to respondents 10 and 11. The relevant portion of the proceedings of the Allotment Committee held on 13.12.1993 reads as under :-

(ix) M/s Vardhman, Spinning & General Mills. It was explained that M/s Vardhman Spinning and General Mills and M/s Mahavir Spinning Mills Group are proposing to put up 2 projects in Ludhiana - a Textile Mill and a Spinning

machine Thread manufacturing unit and need 60 acres of land in Phase 8 of Focal Point, Ludhiana. It was further explained that a similar request was received from M/s Oswal Oils & Fats, Ludhiana for allotment of un-developed land measuring 100 acres for setting up a Composite Textiles Complex. The Committee felt that it is a good trend and entrepreneurs who are wanting to put a large integrated/composite projects may be encouraged to get under-developed land on cost to cost basis subject to the following conditions :-

(a) The entrepreneur would pay the entire cost of land, including enhanced compensation.

(b) They would be charged for external services such as roads, trunk, sewers connection, street lights, storm water system and effluent treatment plant facility proportionate to the use they make of the services.

(c) Internal development in the project area would be entirely at the cost of the entrepreneurs.

(d) The entrepreneurs would develop their lands in conformity with the over-all lay-of the Focal Point/Industrial Area.

The Committee decided that the request of M/s Vardhman/Mahavir Spinning Mills and M/s Oswal Oils and Fats may be approved subject to the above. However, formal approval of the CM. as a policy matter may be obtained before making allotment." A reading of the proceedings of the Allotment Committee held on 9.3.1994 further indicates that on realizing that detailed guidelines on allotment, utilisation, development, apportionment of development charges qua undeveloped land were not available, the Chief Secretary under whose chairmanship, meeting of the Committee was held, directed that Secretary Industries should prepare a policy note in consultation with the Secretary Housing and Urban Development, and bring up in the next meeting of the Committee. Committee though noted that complete details of the projects were not available, yet decided to allot undeveloped land to respondents 6 to 11. As regards the applicants other than respondents 6 to 11, the Allotment Committee decided that they be asked to submit detailed project reports and their request for allotment would be considered for land which was proposed to be acquired in Phase-IX (562.08 acres). In this very meeting, Committee decided to allot 100 acres and 60 acres of land to M/s Oswal Oils and Fats Limited and M/s Vardhman Spinning and Weaving Mills, respondents 10 and 11. In addition thereto, the following allotments were also made:

?M/s Avon cycles : 20 acres M/s Hero Cycles : 100 acres M/s Ritesh Industries : 40 acres M/s Royal Industries : 25 acres

Respondents 6 to 11 to whom land, as noticed above, was allotted, were asked to deposit the full price of the land by 31.3.1994. Land was allotted to respondents 6 to 11 at the rate of Rs. 126/- per sq. yard, i.e. Rs. 6.27 lacs per acre. It is the conceded case of the parties that land which was allotted to

respondents 6 to 11 was acquired for setting up of industrial Focal Point at Ludhiana. The purpose of developing this Focal Point was to re-locate dying and electro-polluting units located in congested areas of the Town and to draw plan for next 10-15 years to accommodate new units and stop their haphazard growth. However, while allotting plots to respondents 6 to 11. these factors were not taken into consideration; rather the Committee in its meeting held on 9.3.1994 noted that detailed guidelines for allotment of undeveloped land were not available and so, it decided that a policy note be prepared in this regard. Instead of wailing for a detailed policy being framed for allotment, utilisation, apportionment of development charges for allotment of undeveloped land, the Committee approved allotment of industrial plots ranging from 20 acres to 100 acres, to respondents No. 6 to 11. It is also the admitted case of the Parties that applications for plots ranging from 50 sq. yards to 3 acres were invited by the Punjab State Industrial Development Corporation through press advertisement, but no press advertisement was given for allotment of bigger undeveloped land. The explanation given by the State in not inviting the applications for allotment of undeveloped land under "Off The Shelf Scheme" is that scheme of allotment of land under "Off The Shelf" did not require invitation of applications by issue of advertisement as the scheme was made public through press, note. State has further averred that the scheme was discussed in a number of seminars organised by P.H.D. Chamber of Commerce, F.I.C.C.I. and C.I.I. in India and abroad. It is further the case of the State that public-at-large was made aware of the scheme and Udyog Sahayak was receiving large number of applications under "Off The Shelf Scheme". The applicants were advised about rate when they approached Udyog Sahayak for allotment of land. State has averred that since the rates were not stable and were liable to change from time to time, it was not necessary to make the rates of land public. As regards the criteria for selection of allottees. State has averred that land was allotted under "Off The Shelf Scheme" to those entrepreneurs who were capable of implementing the proposed project on the allotted land immediately. In the written statement filed by Sh. D.S. Kalha, Director Industries on behalf of respondents 1 to 3, it has been averred that the following criteria was adopted while considering allotment under the scheme :

- a) Whether the project is in thrust areas :
- b) Impact on environment;
- c) Technology involved;
- d) Value addition;
- e) Scope of Employment;
- g) Import Substitution;
- h) Qualification, experience, resourcefulness and general suitability."

The submission of the State that the above-noted criteria was adopted while

allotting land to respondents 6 to 11 is not borne from the record. What is borne from the record is that public-at-large was not made aware that undeveloped land at the rate of Rs. 126/- per sq. yard was available. No applications were invited for allotment of undeveloped land. Allotment of land to respondents 6 to 11 was not on consideration of any criterion as has been submitted by the State in its written statement. However, during the course of arguments, it was submitted by the Counsel for the State that money was not available with the State for being paid to the land owners whose land had been acquired and therefore, Industries Department was contacted by the Chief Minister, impressing upon the Department that large scale industries who have good track record and also continued staying in Punjab when Punjab was in turmoil, may be asked to apply for setting up industries. Counsel had also submitted that proposal of the Department was that large scale industries be asked to pay 20 per cent of the price as earnest money and 80 per cent within 60 days on allotment. According to the counsel for the State, the matter was put up before the Chief Minister who said that large scale industrialists who get allotment under "Off The Shelf Scheme" should pay the whole amount. According to counsel for respondents 6 to 11, the decision of the Government and in particular, Chief Minister, S. Beant Singh, who headed the Government then, was on consideration of the public policy. To my mind, the explanation put forth is not at all convincing and is only a smoke-screen to cover the illegality committed in allotting industrial plots to respondents 6 to 11, It is not acceptable that the Government has the discretion to allot plots to anyone it likes simply because sufficient funds are not available for payment to the land owners whose land had been acquired, Public property and assets are not part of personal properties of Ministers or Chief Ministers, nor are these meant to be used for political and personal ends. Public property is not to be seen as part of one's private property. It has to be dealt with in a fair and just manner and has to be distributed in conformity with law. In the instant case, allotment of industrial plots to respondents 6 to 11 was without following any procedure or criterion. In facts there is no material on the file to justify the exercise of power to make allotment in their favour. Legality of allotting industrial plots to respondents 6 to 11 was also questioned in the Assembly. In the proceedings of the Assembly, on 20.9.1995, one of the members of the Legislative Assembly had made an allegation that former Chief Secretary, Sh. A.S, Chatha, one day before his retirement, after getting proposal approved from the Chief Minister, made allotment of plots to respondents 6 to 11. It had also been alleged that Mr. Chatha had given his property on rent to Oswals' House. The files relating to allotment of land to respondents 6 to 11 show that allotments were made either on account of political and bureaucratic patronage or some other extraneous considerations. The files further show that decision to grant allotment under "Off The Shelf Scheme" of undeveloped land was made in a stereo-type manner. In almost all the cases, there were no formal applications supported by project reports or documents containing details of proposed projects to be set up by these industrial houses.

12. On carefully scrutinising the files relating to allotment of industrial plots to respondents 6 to 11 the following facts emerge :

M/s AVON CYCLE INDUSTRIES :

M/S Avon Cycle Industries made application on 14.12.1993 addressed to S. Beant Singh, the then Chief Minister, Punjab, saying thereto that it has decided to set up three new units under separate names in large scale sector at Ludhiana. viz. Hot Rolled & Special Type of Alloy Steel Wire, Cold rolled Steel Strip and 100% E.O.U. complete bicycle plant. It requested that 20 acres of land either in Focal Point, Phase 4, 5 & 6 in one piece or at three different sites depending upon availability, be allotted. It appears that the application was submitted directly to the Chief Minister and the Chief Minister, on 20.12.1993, endorsed the same to Chief Secretary, with the note the it be examined and needful be done. While the application was being processed, another application was made on 16.2.1994, again sent to S. Beant Singh, Chief Minister, Punjab, stating that it has been granted licence for manufacture of Hot Bars and Rods, from Government of India, Ministry of Industry, New Delhi, in the name of its sister concern, M/s Avery Cycle Industries Limited, Ludhiana, and so, a plot at Focal Point, Ludhiana, in the name of M/s Avery Cycle Industries Ltd., be allotted. On this application, there is a note of Private Secretary to Chief Minister, Punjab, to the following effect :

"C.M. has desired that this case be sent to him within 10 days with the latest position, as emerging from the earlier request."

Along with the letters, no project report was submitted nor any documents were submitted indicating the viability of project, impact on environment, technology involved, export obligation undertaken, scope of employment of resourcefulness, suitability of project. 20 acres of undeveloped land was allotted to respondent No. 6 vide allotment letter dated 22.4.1994 and one of the conditions of the allotment letter was that the plot shall be used for industrial purpose as per project report only. As already noticed, this respondent had not submitted any project report. Infact till date, no project report has been submitted by respondent No. 6. There is yet another interesting feature regarding allotment of 20 aeres of land was allotted, but subsequently, another request was made to the Chief Secretary for allotment of additional 10 acres and the Chief Secretary being the Chairman of the Committee approved further allotment of additional 10 aeres of land to respondent No. 6. What considerations had prevailed with the Chief Secretary to allot additional land are not known. Besides, change of name, i.e. from M/s Avery Cycle Industries to M/s Avery Cycle Industries was also approved by the Chief Secretary.

M/S HERO CYCLES (P) LIMITED:

M/s Hero Cycles (P) Limited made application dated 17.1.1994 to the Managing Director, Punjab Slate Industrial Export Corporation Limited. This application was in reference to some discussion regarding offer of purchase of land measuring

267 acres in the area designated as Focal Point, Phasc-VIII, Ludhiana. The Managing Director. Punjab State Industrial Export Corporation was asked to treat the letter as acceptance of the offer for land measuring 267 acres. On the application, there is note dated 18.1.1994 of the Managing Director of the Corporation for sending the proposal to Director Industries. It appears that the request was put up before the committee under "Off The Shelf Scheme" and on 22.4.1994, 100 acres of undeveloped land was allotted. After allotment, Udyog Sahayak sent letter dated 13.6.1995 stating therein that "in Terms of the allotment, you were requested to complete the construction for factory building, place firm orders for the purchase of plant and machinery, make arrangements for power connection and get your loan application appraised from the Financial Institution within one year. You are requested please to intimate the present position in respect of the above-mentioned points as the stipulated period has lapsed. Your reply should reach us within 10 days from the issue of this letter failing which it shall be presumed (hat you have not initiated steps for construction of building, purchase of plant and machinery, arrangements for power and appraisal of your loan application and action at our end shall be initialed to cancel the allotment and resume possession of the land without making any further reference to you." It reply to this, Hero Cycle (P) Limited wrote to Udyog Sahayak that it has hired a Consultant to suggest a suitable project for the land and decision to set up unit on this piece of land would be taken very soon. From a reading of this, it is clear that except a simple application which initially was addressed to Managing Director, Punjab State Industrial and Export Corporation, respondent No. 7, had not sent any project report for proving genuiness of its requirement. Infact, there had not been any project report even after the land had been allotted. It is not understood as to on what criterion the Committee had allotted 100 acres of undeveloped land to M/s Hero Cycles (Pvt.) Limited.

M/S RITESH INDUSTRIES:

Perusal of the file has revealed that M/s Ritesh Industries directly presented application dated 9.3.1994 to the Minister for Industries for allotment of 70 acres of land for setting up four projects, namely, Milk Plant, Export oriented stitching unit. On the basis of application dated 9.3.1994, a note was prepared and the Minister endorsed the same to the Chief Secretary for consideration for allotment of land. When note dated 11.3.1994 of the Minister was put up before the Chief Secretary, he directed that the application be examined and be put up in the next meeting of the Committee. The note of the Chief Secretary is dated 11.3.1994. File contains another note dated 15.3.1994 of the Managing Director, Punjab Small Industries and Export Corporation which is to the following effect :

"Chief Secretary to Government, Punjab rang me up at 12.45 P.M. and asked me to consider the application dated 9.3.1994 of Ritesh Industries, Ludhiana, placed below for allotment of 70 acres of land in Phase VIII, Focal Point, Ludhiana, which was perhaps deferred earlier for allotment in Phase IX. SI may like to

discuss with Chief Secretary, on the subject."

However, proceedings of the allotment Committee held on 9.3.1994 show that 40 acres of undeveloped land had been allotted to M/s Ritesh Industries on 9.3.1994 itself. If land had already been allotted in the meeting presided over by the Chief Secretary, how come he asked that the application be put up in the next meeting or asked the Managing Director, Punjab Small Industries and Export Corporation, on telephone to consider the application of M/s Ritesh Industries. It appears that either meeting was not held on 9.3.1994 or the records in this regard have been forged, the file relating to this respondent has further revealed that subsequently, allotment Committee in its meeting held on 19.3.1995 also approved the proposal of the company to use the allotted land for setting up of following projects:

i) Milk Processing plant and : 11 acres Knitting & Stitching unit. ii) Spinning unit : 15 acres iii) Knitted Garments unit : 7 acres, iv) Worsted Yarn unit : 5 acres, v) Dyeing unit : 2 acres This respondent had also not sent any project report along with the application.

M/S ROYAL INDUSTRIES:

M/s Royal Industries made an application to the Managing Director, Punjab Small Industries and Export Corporation, in reference to some discussion which had earlier taken place. Later, another application dated 3.3.1994 was made to Director of Industries, Punjab, with a request for allotment of 25 acres of industrial land for the proposed hosiery unit. This respondent had also not submitted any project report along with the application.

M/S OSWAL OILS & FATS LTD:

This industrial house made a request directly to the Chief Minister, Punjab, by making application dated 4.10.1993 stating that 100 acres of land in Industrial Estate, Phase-VIII, for setting up of a State of the Art Integrated Textile Complex be allotted. On this application itself, the Chief Minister put a note to the following effect.

"It is a genuine request from one of our growing and dynamic industrial Houses of Ludhiana, 100 acres of undeveloped land from the area being developed as industrial Estate Phase-VII at Mundian Kalan, near Ludhiana may be allotted to them. The allottee will carry out internal development at its own cost. Share of external development, if any, may be recovered proportionately. The allotment will be subject to the condition that it is used only for promoting industries as mentioned in this paper."

This note was endorsed to the Chief Secretary who directed that the request be processed. Vide allotment letter dated 22.4.1994, 100 acres of undeveloped land was allotted. Subsequently, change of name of the company, i.e. from M/s Oswal Fats and Oils Limited, to whom land was allotted, with approval was changed to M/s Nahar Industrial Enterprises.

M/S VARDHMAN SPINNING & GENERAL MILLS;

M/s Vardhman Spinning and General Mills, one of the companies belonging to Vardhman Group of Industries, made application dated 7.1.1994 requesting for allotment of 75 acres of land for setting up various manufacturing units like Spinning, sewing and a steel rolling mill. With the application, no project report for proposed industrial unit was submitted. On this application, vide allotment letter dated 22.4.1994, 60 acres of undeveloped land was allotted.

A perusal of almost all files shows that respondents 6 to 11 had neither sent any earnest money nor submitted any project report for consideration of the Committee. Allotment Committee had not done any verification of the statements made in the applications submitted by the allottees. In absence of any project report or documents in support of the proposals for setting up of industrial units by respondents 6 to 11, how was it feasible for the Allotment Committee to assess the requirement of land by the said respondents is not known. It has thus, been established that allotment was made under suspicious circumstances and without adopting any criterion.

13. Counsel appearing for respondents 6 to 11 contended that the State was not bound by the industrial policy for the year 1992 and was competent to revise its policy because of changed circumstances. Counsel contended that the Chief Minister, on 7.3.1994, had taken a decision that suitable chunk of land be retained for development by Punjab Small Industries and Export Corporation for the benefit of smaller unit and the remaining land be allotted to large industrial houses/export houses or development of their large scale industrial units or promotion of export units. Counsel contended that the Chief Minister had also directed that such allotment must stipulate the following conditions:-

- (a) The allottees must pay full amount of land acquisition price within the date of the notification.
- (b) They must develop and put to industrial use the land allotted to them within three years.
- (c) They must give a guarantee to the State Govt. that they will be responsible for making payments of any enhancement compensation, made by the Courts and shall always pay the same as per the orders of the Courts.
- (d) They must give an undertaking that they shall pay all external development charges to the P.S.I.E.C.
- (e) They must also undertake that they will ensure a proper industrial development of the area allotted to them."

Learned counsel also made reference to minutes of the meeting of the Allotment Committee held on 9.3.1994 wherein the Committee had decided to incorporate the afore-mentioned conditions while allotting plots to respondents 6 to 11. Counsel contended that decision of the Chief Minister dated 7.3.1994 and as

subsequently accepted by the allotment Committee in its meeting held on 9.3.1994 would be deemed to be a revised policy of the State and allotment having been made in terms of the policy, allotment of plots in favour of respondents 6 to 11 is valid. This contention of the counsel is without any substance. A reading of the proceedings of the meeting of the Allotment Committee held on 9.3.1994 has revealed that the Committee was well aware that there existed no policy in regard to allotment of plots of undeveloped land as the policy for the year 1992 envisaged allotment of developed land only. Allotment committee, infact, noted that detailed guidelines on allotment, utilisation, development, apportionment of development charges for undeveloped land were not available. It was for this reason that the Chief Secretary had directed that Secretary Industries should prepare a policy note in consultation with the Secretary, Urban Housing Development. Instead of waiting for the detailed policy to be prepared for allotment of undeveloped land, allotment Committee for the reasons best known to it, allotted land to respondents 6 to 11 on 9.3.1994 itself.

14. Counsel for respondents 6 to 11 cited judgments in Dattatreya Moreshwar Pangarkar Vs. The State of Bombay and Others, , P. Joseph John Vs. The State of Travancore-Cochin, , R. Chitralekha and Another Vs. State of Mysore and Others, , State of Uttar Pradesh Vs. Om Prakash Gupta, , State of Punjab Vs. Satya Pal Dang and Others and Baldev Parkash and Others, , and State of Rajasthan and Ors. v. Union of India AIR 3977 S.C. 1361, to contend that even if there is any violation of Rules and Business, petitioner has got no right to get it enforced under Articles 226 of the Constitution of India. Counsel contended that Rules of Business made under Articles 166(3) are directory and do not create any right enforceable under Article 226 of the Constitution of India. In the facts and circumstances of this case, this contention too is to be rejected being not relevant to the decision of this case. As already dealt with in the earlier part of the judgment, allotment in favour of respondents 6 to 11 is not a case of aberration here or aberration there, but is a case of political and bureaucratic favoritism. Allotment Committee had exercised its power taking into account the irrelevant and extraneous considerations.

15. Counsel then contended that since respondents 6 to 11 have made huge investments, they would suffer an irreparable loss and injury if allotment in their favour is cancelled. This contention is also devoid of any merit. The Courts of Law have the responsibility to look at the action complained of from the altar of Article 14 of the Constitution, In case the Courts find that the action complained of is arbitrary or is in disregard to the policy notified or is on account of extraneous considerations, then Courts have no option but to quash such an action. In E.P. Royappa Vs. State of Tamil Nadu and Another, , the Supreme Court held :-

"From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies, one belongs to the rule of law in a

republic while the other, to the whim and caprice of an absolute monarch, where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is, therefore, violative of Article 14."

The Supreme Court also held that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It requires that the State action must be based on valid relevant principles applicable alike to all similarly situated and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality. Where the operative reason for State action as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and outside the area of permissible consideration, it would amount to mala fide exercise of power and that is hit by Article 14. Justice Krishna Iyer dissected Article 14 as under:

"The article has a pervasive perceptual potency and versatile quality, equalitarian in its soul and allergic to discriminatory dictates. Equality is the antithesis of arbitrariness and ex cathedra is the ally of demagogic authoritarianism. Only knight errants of "executive excesses" if we may use current cliché-can fall in love with the Dame of despotism, legislative or administrative. If this Court gives in here it gives up the ghost. And so it that It insist on the dynamics of limitations on fundamental freedoms as implying the rule of law. Be you ever so high, the law is above you."

In this case, it is established that the action of the Allotment Committee in making allotments in favour of respondents 6 to 11 is illegal, arbitrary, unconstitutional and on account of political and bureaucratic favoritism. There is no equity in favour of respondents 6 to 11 and allotment in their favour deserves to be quashed. A Division Bench of this Court in *Seven Seas Educational Society Vs. The Haryana Urban Development Authority, Panchkula and others*, after noticing judgment in *Thapar Institute of Engineering and Technology, Patiala v. State of Punjab*, (C.W.P. No. 1745 of 1992 decided on 2.9.1994), held that "the High Court cannot permit the illegalities to be perpetuated upon the persons who illegally got the benefits. Permitting such a course would amount to deviating the performance of constitutional obligations. All allottees who had succeeded in getting the conferment of benefits in their favour can not be permitted to argue that as they have already enjoyed the benefits on the basis of the illegalities committed in their favour, no harm should be done to them. The respondent-authority and the private respondents are presumed to know the law and aware of the illegalities committed by not having resorted to the provisions of the Act and the Regulation in conferment of largess in favour of the allottees. It has been conceded before us that during the pendency of the writ petitions, interim directions were issued that if any construction is raised by the allottees, the same shall be at their own risk and responsibility and subject to the decision of the writ petition. Could a person or institution getting the concession at his own risk be permitted to urge that such a concession made in his/its favour was unconstitutional and illegal. The reply must be emphatically in negative.

Accepting such an argument would defeat the interests of justice and depriving the successful litigant in getting the benefit of the orders of the Courts passed in their favour. Any clever litigant, as the private respondents are in this case, feeling that their cases were weak but likely to be disposed of after some time, would make such a request and if the lis is decided against them, frustrate the judgments on such pleas. The Courts while exercising writ jurisdiction are not concerned with the consequences which are likely to arise on account of the determination of the rights of the parties. The Courts are also not concerned with the names of faces or reputation of the parties before it. Once the lis has been decided in accordance with the Constitution and the provisions of law, the consequences would normally follow unless compelling cogent or valid reasons are shown otherwise. The bona-fides of the respondents in the instant case have been proved to be not free from doubt from the very beginning. They manipulated the allotments in their favour and raised alleged huge constructions at their own risk and responsibility under the cloak of the Court orders permitting them construction on the conditions which now they do not want to follow. Notwithstanding the fact that the respondents had raised construction, their allotments cannot be permitted to be continued."

16. I am also add that as per information supplied by the Advocate General, Punjab, construction has been raised only by M/s Ritesh Industries, M/s Royal Industries and M/s Avon Cycle Industries, M/s Ritesh Industries has constructed industrial shed in 60,200 sq. fit., M/s Royal Industries has constructed industrial shed in 65,000/- sq.ft. and M/s Avon (Avery) Cycle Industries and M/s Oswal Oils and Fats Limited (M/s Nahar Industrial Enterprises) are in the process of constructing industrial sheds. M/s Vardhman Spinning and General Mills and M/s Hero Cycles Limited have not started any construction on the spot. Except for industrial sheds, the remaining area is lying vacant. Vide interim order dated 3.2.1997, it was directed that construction, if any, made by respondents No. 6 to 11 shall be entirely at their risk and responsibility and it shall not be open to them to plead equitable considerations on this count. In view of interim order dated 3.2.1997, construction, if any, raised by respondents 6 to 11 was at their risk and responsibility and they cannot be permitted to argue that allotment in their favour be maintained

17. Resultantly, the writ petition is allowed. All allotments made in favour of respondents No.6 to 11 are hereby quashed. Following directions are also issued:

(1) Government of Punjab may frame policy for allotment of undeveloped land to specified class of persons and notify such policy.

(2) Allotment under such policy shall be made by inviting applications through public notice from all those who belong to a particular class. In case petitioner or respondents 6 to 11 fall in the category of such specified class of persons, they shall be permitted to participate in the process of allotment.

(3) Value of the construction raised by respondents 6 to 11, existing as on

3.2.1997, shall be got determined by the Committee of Experts headed by Chief Engineer.

(4) In case respondents 6 to 11 succeed in allotment, preference shall be given to them in regard to the site on which they have raised construction.

(5) Out of the amount realised by sale of undeveloped plots, respondents 6 to 11 shall be paid the amount spent by them on construction, as existing on 3.2.1997.

(6) In case respondents 6 to 11 exercise their option to remove the construction raised by them, the same shall be allowed at their own cost risk and responsibility.,

(7) Policy to be notified be framed within two months and the entire exercise of allotment be completed within six months thereafter.

(8) Till fresh allotment/sale is completed, respondents 6 to 11 shall be permitted to remain in possession of the sites allotted to them.

(9) Petitioner shall be entitled to payment of costs which are assessed at Rs. 6000/-, to be borne proportionately by respondents 6 to 11.