
(1996) 11 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7985 of 1996

Jhujhar Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 06-11-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 115 PLR 421 : (1997) 1 RCR(Civil) 685

Hon'ble Judges : V.S. Aggarwal, J; Sat Pal, J

Bench : Division Bench

Advocate : G.C. Dhuriwala and P.P. Singh, for the Appellant; G.S. Kanwar, for the Respondent

Final Decision : Allowed

Judgement

Sat Pal, J.—In this writ petition, the petitioner has prayed for a direction to the respondents to hand over the possession of industrial plot which was allotted to the petitioner vide allotment letter dated 25th September, 1987 (Annexure P-4). 2. Briefly, stated, the facts of the case are that the respondent No. 2 advertised in the newspaper. The Tribune, dated 23rd January, 1984, inviting applications for allotment of plots on free hold basis at SAS Nagar under self financing scheme. Pursuant to this advertisement, the petitioner applied for one of those plots and he was allotted plot No. 195-P, measuring 478 square yards at Industrial Focal Point, SAS Nagar, for the manufacture of electric fans on free hold basis vide letter of allotment dated 25th September, 1987 (Annexure P-4). The terms and conditions of the allotment were mentioned in the aforesaid letter. By this letter of allotment, the petitioner was directed to deposit a sum of Rs. 16826/- being 40% amount of tentative price of plot within a period of 30 days from the date of the allotment order. Admittedly, the said amount was deposited by a bank draft by the petitioner along with letter, Annexure P-5.

2. The allotment of plots as made pursuant to the advertisement of 23.1.1984 was challenged in C.W.P. No. 6698 of 1987 (Hazari Singh Mavi v. State of Punjab

and Ors.,). The learned Single Judge of this Court vide judgment dated 2nd June, 1989, allowed the writ petition and quashed the orders of allotment of plots to different persons and directed the respondents to invite fresh applications for allotment of the plots. Thereafter respondent No. 2 returned the amount to the petitioner deposited by him vide Bank draft dated 21st October, 1987, which was sent to the petitioner alongwith letter dated 9.5.1990 (Annexure P-8). The respondent No. 2 invited fresh applications vide advertisement dated 9.5.1990 (Annexure P-7). It is the admitted case of the parties that in response to this advertisement, the petitioner did not submit any application.

3. Some of the earlier allottee, but not the petitioner, challenged the second advertisement dated 9.5.1990 inviting applications for allotment of industrial plots in Phase II, SAS Nagar, pursuant to the directions given by this Court in the case of Hazari Singh (supra), in C.W.P. No. 3310 of 1990 (Reported as Nirmal Singh and others Vs. State of Punjab and others,) and various other similar petitions. All these writ petitions were disposed of by a Division Bench of this Court by a common judgment dated 13th January, 1994. By this judgment, the Hon"ble Judges of the Division Bench allowed all these writ petitions and held that the judgment dated 2nd June, 1989 rendered in CWP No. 6693 of 1987 (Hazari Singh's case) and the connected writ petitions whereby the allotment of industrial plots made in favour of the persons like the petitioners was cancelled, would be in effective so far as the rights of the petitioners were concerned. The respondent No. 2 was directed to make allotment of industrial plots to the petitioners in those cases as per the terms and conditions mentioned in the allotment letter. It was, however, made clear in the judgment that the respondent No. 2 would be entitled to claim the additional price of the plot on account of enhancement of compensation under the Land Acquisition Act.

4. Relying in the law laid down in the above mentioned D.B. judgment the petitioner submitted representation dated 23.1.1994 (Annexure P-1) to the respondent No. 2 and submitted that as a result of passing of the judgment dated 13th January, 1994, he was entitled to get possession of the industrial Plot No. 195-P Phase IX Mohali. He, therefore, requested respondent No. 2 that the agreement form may be supplied to him and he should be handed over the possession of the said plot. Since no reply was received by the petitioner to his representation, the present writ petition has been filed by the petitioner.

5. Mr. Dhuriwala, learned counsel appearing on behalf of the petitioner, submitted that the petitioner was allotted plot in question vide allotment letter dated 25.9.1987 and in accordance with the terms and conditions mentioned in the allotment letter, he had deposited the earnest money. He submitted that pursuant to the judgment, dated 2nd June, 1989 in the case of Hazari Singh (supra) respondent No. 2 refunded the amount of earnest money to the petitioner along with letter dated 10th May, 1990. He further submitted that since the aforesaid judgment dated 2.6.1989 has been held to be ineffective by a Division Bench of this Court in the case of Nirmal Singh (supra), the petitioner

was entitled for restoration of the allotment of the industrial plot on the same terms and conditions mentioned in the said judgment.

6. Mr. Kanwar, learned counsel appearing on behalf of the respondents, however, submitted that in the judgment rendered by the Division Bench in the case of Nirmal Singh (supra), it was clearly stated that the judgment dated 2.6.1989 rendered in the case of Hazari Singh (supra) and the connected writ petitions would be ineffective so far as the rights of the petitioners were concerned. He, therefore, contended that since the petitioner was not one of the petitioners in the case of Nirmal Singh (supra), he was not entitled to any relief.

7. After hearing the learned counsel for the parties and having perused the record, we do not find any substance in the contention raised by the learned counsel for the respondents. Admittedly, the allotment of the industrial plot made in favour of the petitioner was cancelled in pursuance of the judgment dated 2nd June, 1989, rendered by the learned Single Judge of this Court in the case of Hazari Singh (supra). Since the said judgment in the case of Hazari Singh itself has been held to be ineffective by the Division bench in the case of Nirmal Singh (supra), we fail to understand as to how the petitioner is not entitled to the re-allotment of the industrial plot which was allotted to him vide allotment letter dated 25.9.1987 (Annexure P-4). Since the case of the petitioner is identical to the case of the other allottees who were writ petitioners in the case of Nirmal Singh (supra) we are of the considered opinion that the petitioners is also entitled to be allotted the industrial plot in S.A.S. Nagar on the same terms and conditions which have been made applicable to those petitioners vide judgment dated 13th January, 1994 in the case of Nirmal Singh (supra).

8. For the reasons recorded herein above, we allow the writ petition and direct the respondent No. 2 to make the allotment of the industrial plot to the petitioner as per terms and conditions in the letter of allotment dated 25th September, 1987 (Annexure P-4). We, however, make it clear that respondent No. 2 will be entitled to claim additional price on account of enhancement of compensation under the Land Acquisition Act, as mentioned in the judgment of Nirmal Singh (supra). The parties are, however, left to bear their own costs.