
(2018) 07 P&H CK 0035

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 22938, 2835, 2836 of 2010, 8813 of 2011

M/s Shankar Stone Crushing Co

APPELLANT

Vs

State of Haryana and Ors

RESPONDENT

Date of Decision : 24-07-2018

Acts Referred:

Citation : (2018) 07 P&H CK 0035

Hon'ble Judges : SURYA KANT, J;SUDIP AHLUWALIA, J

Bench : Division Bench

Advocate : Tushar Sharma, R. Kartikeya

Final Decision : Dismissed

Judgement

1. The matter involved in this bunch of Writ Petitions is similar. All the Writ Petitioners happen to be displaced Stone Crushing Firms and the relief

sought for by them is also identical. For the sake of brevity and convenience therefore, CWP No.22938 of 2010 (M/s Sanjay Stone Crushing Co. Vs.

State of Haryana & Ors.) is taken up as the Lead Case in deciding all the petitions.

2. The Petitioner happens to be a Stone Crushing Firm which was affected by the Order of the Supreme Court dated 15.5.1992 passed in allowing a

Petition by Advocate M.C.Mehta, whereby Mechanical Stone Crushers established/ operating in certain specified areas in and around the National

Capital Region were directed to be made non-functional with effect from 15.8.1992. The Apex Court had further directed the concerned Authorities

to provide land to the affected Stone Crushers in or around a new 'Crushing Zone', which had been approved at village Palli, with a further direction to

provide additional land if the same was not sufficient in the Designated Zone so

as to accommodate all the Stone Crushers affected by its Order.

3. The Faridabad Municipal Corporation initially published an Advertisement for registering applicants for the sites in the Crushing Zone.

The Petitioner however, in spite of having applied for the same could not get allotment on account of financial constraint, as it was unable to pay the earnest money.

4. Thereafter, in the year 2001, Haryana State Pollution Control Board issued a Public Notice inviting applications for allotment of Stone Crushing

Sites at Stone Crushing Zone in village Dhauj, Distt. Faridabad. The composite price of the designated land was fixed at Rs.23.70 lacs per acre. The

Petitioner did apply for the same, but apprehending rejection of its application at the hands of the Allotment Committee, filed CWP No.15782 of 2001

along with three more Crushing Units challenging Clause 9 of the relevant Brochure. The same was finally disposed off on 28.5.2009 after modifying

only the concerned Clause 9, while rest of the terms and conditions mentioned in the Brochure were retained. The Petitioner therefore, contends that

in view of the concerned judgment dated 21.3.2009 and the following order dated 28.5.2009, the plot already reserved for it ought to have been allotted

within three months, but the Respondents failed to comply within the time limit.

5. This Court vide its order dated 15.1.2010 again directed the Respondents to comply its judgment dated 21.3.2009 by making allotment of

plots/alternate plots. Consequently, on 19.1.2010 the Respondents decided to allot the plot reserved for the Writ Petitioner at Dhauj. The Petitioner

was issued Regular Letter of Allotment dated 25.1.2010 whereby Plot No.77 measuring 4013.62 Square Meters allotted to it at Dhauj Stone Crushing

Zone, but at an exorbitant price of Rs.4900/- per Square Meter.

On 17.2.2010 the Petitioner filed Contempt Proceedings against the Respondents for intentional and willful non-compliance./disobedience of the

Orders passed in CWP No.15242 of 2001 dated 21.3.2009 and in CWP No.19582 of 2002 dated 28.5.2009. The Respondent No.5 Chief

Administrator, Haryana Urban Development Authority thereafter filed a Short Affidavit intimating that the amount of Rs.4900/- per Square Meter had

been inadvertently mentioned in the Allotment Letter, and that the actual price had been fixed at Rs.1128/- per Square Meter on the basis of the

original price of Rs.23.70 lacs per gross acre as mentioned in the original

Advertisement of 2001, and after having added the requisite interest for the intervening eight years, the price of the concerned plot was arrived at Rs.45,64,926/- which therefore, comes to Rs.1128/- per Square Meter.

6. To that extent, the prayer of the Petitioner for quashing Clause 2 of the Allotment Letter in which price of Rs.4900/- per Square Meter is quoted, is already redundant since the Respondents had themselves admitted that such figure was inadvertently mentioned, although it related to some other plot not concerning the Petitioners. The Petitioner-Firm is nevertheless dissatisfied even by the price of Rs.1128/- per Square Meter arrived at on the basis of interest calculated for the intervening years, as has been explained on behalf of the Respondents, by contending that the interest levied is also exorbitant and unjustified.

7. From the Petitioners' side, reliance has been placed upon a Division Bench decision of this Court in the case of 'Punjab Urban Planning and Development Authority (PUDA) and another Vs. Jit Singh and another' 2004(3) R.C.R. (Civil) 513. In that matter, the Writ Petition of the Respondents had been allowed and the Ld. Single Judge had directed the Punjab Urban Planning and Development Authority (PUDA) to charge the original price at the rate of Rs.1400/- per square yard from the petitioner for the plot which had been ear-marked for him. The appeal preferred by the PUDA was dismissed by the Division Bench with the following observations -

â??7. Coming now to the merits of the case, we may mention that it has been the positive case of the petitioner so pleaded in paragraph 16 of the writ petition that the action of the respondent in demanding the price of the plot at the rate of Rs. 3,600/- per square yard is wrong, illegal and is violative of fundamental right of equality granted under Article 14 of the Constitution of India. It is further stated in the paragraph aforesaid that the petitioner is entitled to allotment of plot at the rate of Rs. 1,400/- per square yard as has been charged from other similarly situated persons/oustees, who were declared successful in draw of lots held on August 1, 1995. The petitioner gave by way of illustration names of five persons, who were successful in the draw of lots held on August 1, 1995, along with the petitioner and were charged at the rate of Rs. 1,400/- per square yard. In reply to this paragraph, all that has been mentioned in the corresponding paragraph of the written-statement is that the petitioner at the time of making the

application agreed to abide by condition No. 12 of the allotment conditions and he is himself guilty of causing delay in completing the formalities, then it is not understandable as to how he is claiming it to be his right to be allotted a plot at the old rates. It is then pleaded that the mention of other persons who had been allotted plots at old rates was of no relevance as they were allotted the plots at the then prevailing rates when they had completed the formalities asked for. The only formality that the petitioner did not complete was regarding clarification, which was sought from him, with regard to his joint holding and his entitlement thereof to a joint plot or for that matter requirement of submitting no objection certificate. The petitioner, as mentioned above, had clarified the position on an earlier occasion and yet he was issued a similar letter again, to which he did not respond but chose to file an appeal with the result already indicated above. Once the policy underwent a change way back in 1991 and was interpreted by Hon'ble Supreme Court by holding that a person, even though having joint land, was entitled to individual plot, there was no occasion for the State to have told the petitioner to do what was not required under the law. From the facts of this case, we find that the petitioner made no mistake nor lacked in supplying any required information. In fact, the respondents, in the present case, appear to have indulged in sheer carelessness to say the least and yet, with impunity, wanted to shift their burden to the petitioner for delaying the matter.â?? (Emphasis added)

8. In the opinion of this Court however, the aforesaid citation does not help the Petitioner-Firm since, in the present case, there is no element of any discrimination towards it, inasmuch as any such price is being charged from it, which is different from that charged from any of the other allottees covered by the same Scheme. But, as can be seen from the above reproduced extract of the Judgment of the Division Bench in the citation relied upon, there was a positive case of discrimination, inasmuch as at least five other persons similarly situated as the Respondent/Writ Petitioners had been allotted the plots at the original rate of Rs.1400/- per square yard, and the delay in case of the Writ Petitioners was found to be directly attributable to the Appellant/PUDA.

9. It is seen that in the present case, fixation of the price has been by way of levying interest directly in accordance with the Policy of HUDA from

time to time, for the intervening period between the original Advertisement and the actual allotment, which has also been vividly explained by the

Respondents as follows -

â?? Approved Rate:

Valid upto 27.09.2001 Rs.2370000/-

Â (Rs.585/- per sq. Mtr).

@ 15 % interest 27.09.2001 to 15.11.2002 Rs.401913/-

@ 11 % interest 16.11.2002 to 31.12.2005 Rs.814688/-

@ 9 % interest 01.01.2006 to 31.3.2009 Rs.693925/-

@ 12 % interest 01.04.2009 to 31.03.2010 Rs.284400/-

Rs.4564926/-

Say Rs.1128/- per Sq. Mtr.â??

10. As can be seen, such fixation is uniform in accordance with the HUDA Policy from time to time and there is no case of discrimination made out

against the present allottees qua any other allottees under the same Scheme. Even otherwise, the delay in the matter is not attributable to the

Respondent/Authorities, on account of which, this Court finds no reason to hold that the price being charged from the Petitioner(s) at Rs.1128/- per

Square Meter is exorbitant or otherwise unjustified.

11. Dismissed.