
(2002) 05 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5325 of 1993

Parkash Dhiman

APPELLANT

Vs

Union Territory, Chandigarh and Others

RESPONDENT

Date of Decision : 15-05-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 05 P&H CK 0014

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

Bench : Single Bench

Advocate : G.S. Bhatia, for the Appellant; K.K. Jagia, for Respondent Nos. 1 and 2 and Pawan Kumar, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Bali, J.—Om Parkash Dhiman and three others, through present petition filed by them under Article 226 of the Constitution of India, seek issuance of a writ in the nature of mandamus directing official respondents 1 and 2 to put their names in the draw of lots for allotment of built-up industrial sheds at village Hallo Majra.

2. Brief facts, as projected in the petition, reveal that the 2nd respondent advertised in the news paper in the month of December, 1991, inviting applications for allotment of built-up industrial sheds located in village Hallo Majra in Union Territory, Chandigarh. The last date for receipt of the applications was fixed as 20.1.1992. In the advertisement, Annexure P-1, the IInd respondent has mentioned as under;-

"Built up sheds will be allotted on 99 years lease hold basis on terms and conditions as annexed with application form which can be had from the office of the Corporation against cash payment of Rs. 10/-."

3. All the petitioners are said to have obtained application forms alongwith terms and conditions. They applied for Type "A" built-up industrial shed, tentative costs whereof was assessed at Rs. 2 lac. As per the terms and conditions incorporated

in Clause (v), an applicant was required to annex a draft of Rs. 20,000/-, being 10% of the total price on account of earnest money. Terms and conditions for the allotment of built-up industrial sheds have been placed on record as Annexure P-2. It is further the case of the petitioners that under the scheme of Nucleus Centre, only 29 small scale/village industries were approved. A list of 29 industries has been attached to the petition as Annexure P-3. All the petitioners alongwith their application forms submitted the project report of the unit to be set up in case shed is allotted, which comes within the scheme. Having received no letter, either of allotment or of draw of lots, petitioner No. 1 addressed a letter to the 2nd respondent. In response thereof, he received registered letter dt. 5.5.1993 alongwith a cheque amounting to Rs. 21,107/-, which is stated to be refund/return of the earnest money. The petitioners then approached the 1st respondent for the desired relief but when the said respondent did not respond to the request made by the petitioners, present petition for the relief, as noted above, was filed.

4. Vide interim order passed by this Court on 3.6.1993, the Hon'ble motion Bench kept reserved one plot for allotment in case petitioner No. 4 was to be found eligible. The order reads thus:-

"By our interim order dated May 11, 1993 the names of the petitioners were directed to be included in the draw of lots. We are informed that petitioner 4 was successful in the draw. We consequently admit this writ petition and direct that meanwhile one plot be kept reserved in favour of the petitioner for allotment in case he is eventually found eligible."

5. The admitting order, reproduced above, would clearly manifest that eligibility of petitioner No. 4 was to be examined inasmuch as, insofar as other petitioners are concerned, they were not even successful in draw of lots. Mr. Bhatia, learned counsel representing the petitioners, however, vehemently contends that the writ petition has been admitted without limiting it to petitioner No. 4 and, therefore, case of the petitioners has also to be considered. Interim order dated 3.6.1993 even though needs to be interpreted otherwise yet, I have heard learned counsel with regard to the eligibility of petitioner No. 4 and right of other petitioners for allotment of industrial unit, as canvassed by learned counsel.

6. In response to the notice issued by this Court, respondents No. 1 and 2 have filed reply. By way of preliminary objections it has been averred that the petitioners have not approached this Court with clean hands as they have not presented correct facts. It is then pleaded that in the year 1990 a scheme for nucleus centres had been conceived under which 38 Nos. industrial sheds were constructed by respondent No. 2 in 3 villages around Chandigarh, namely, Hullo Majra, Mauli Jagran and Maloya in the first phase. For the allotment of these sheds, a general policy scheme was evolved and published by 1st respondent to be effective from 10.12.1990. Under the aforementioned policy scheme, a screening committee was constituted for built up industrial sheds comprising of MD, CITCO, General Manager, DC and President, Industries Association of Chandi-

garh. Application for allotment of the said sheds were invited through press in November 1990. In response thereto 331 applications were received. The same were then placed before the screening committee who after conducting proper interview lasting over several days, short-listed 122 candidates to be finally picked up for allotment of plots. The consideration that weighed with the screening committee was the feasibility of the project put up, the qualification/experience of entrepreneurs, his/her expertise in the field and spade work already done by him/her etc. The object was to encourage only genuine entrepreneurs. In the process, petitioner No. 2 who happened to be one of the applicants got eliminated. Forty nine applicants remained unsuccessful at the open draw held in October 1991 but they gave option for being carried over to next draw. Thereafter, 19 more¹ sheds including 7 of "A" category, 2 marla size, were constructed in village Hallo Majra and were again given wide publicity in the press. All the petitioners put their applications for 2 marla sheds and petitioner No. 2 again applied on the basis of same very project that had earlier been found unfeasible by the screening committee. So, while petitioner No. 2 was rejected outright, other three also failed during the course of screening conducted on 10th and 11th December, 1992. Since the number of applicants happened to be fairly large as compared to 7 sheds available for allotment, it was decided to again put them to open draw of lots as before on 13.5.1993. On merit also the cause of the petitioner has been opposed wherein it has been pleaded that original scheme was notified on 1.4.1991 and 50% reservation was made for rural applicants. The other averments made in the written statement shall be referred to as and when occasion arises in context of various points raised by Mr. Bhatia.

7. The first contention raised by Mr. Bhatia, learned counsel for the petitioners is that all the petitioners hail from village Hallo Majra. Terms and conditions of allotment Annexure P-2 would clearly manifest that 50% of the plots/sheds were to be allotted to the applicants who belong to village Hallo Majra alone and inasmuch as 50% reservation for the applicants from village Hallo Majra was not adhered to, the allotments already made have to be set aside and there being 7 sheds in all, at least three petitioners have to be accommodated. In the context of the facts and circumstances of this case, this Court finds that there is no substance in the contention of the learned counsel for the petitioners, noted above. It is true that while dealing with the terms and conditions for allotment of built up industrial sheds, it has been mentioned that the same are located in village Hallo Majra. It will be useful to extract three lines of the terms and conditions relied upon by Mr. Bhatia to support his contention. The same reads thus:-

"Terms and conditions for the allotment of built-up Industrial Sheds located in village Hallo Majra in Union Territory, Chandigarh as per detailed given below:-

Type of Shed

No. of Sheds

Average plinth Area (Approx) (Size of shed)

Tentative Cost of Shed (Rs. in lacs)

Earnest Money (Rs.)

HALLOW MAJRA

Type "A"

7

400 Sq. ft.

2.00 lacs

20,000/-

Type "B"

12

200 Sq. ft.

1.00 lacs

10,000/-"

So far as reservation of 50% industrial sheds is concerned, the same has been mentioned in Clause (x) of the terms and conditions which reads as follows:-

(x) 50% Industrial Sheds are reserved for the residents of U.T. Villages under the scheme."

8. After reading Annexure P-2 dealing with the terms and conditions of allotment, the Court has absolutely no doubt that even though sheds might have been located in village Hallo Majra only the reservation of 50% of such sheds was not limited to those who are residing in village Hallo Majra, as in that case there was no need at all to mention in Clause (x) reproduced above "residents of U.T. villages". As mentioned above, three lines reproduced above relied upon by Mr. Bhatia only deal with the location of industrial sheds and the same are not with regard to reservation as argued. That apart, if the projects submitted by the petitioners were not found feasible, they could not even have been brought in the draw of lots irrespective of their belonging to a particular village. In other words, even if there was a reservation for village where the petitioners were residing, it would not make any difference, if the project report was rejected as such, they would not have answered in that case the pre-requisites of allotment of industrial sheds,

9. On behalf of petitioner No. 4 it has been urged by Mr. Bhatia that his project was rejected only on the ground that the same being Welding Works would not come under the approved project. In fact, petitioner No. 4 applied for industrial shed for running an industry of Welding Works but did not attach the project

report because it was an existing/running unit. After scrutiny of the applications, he was asked to furnish more documents which he did and yet, he was not found eligible on the ground that he was engaged in welding works which could not be included in blacksmithy. I find no merit in this contention of the learned counsel as well. A copy of the permitted industries has been annexed with the petition as Annexure P-3. Item No. 28 reads as under:-

28 (a) Carpentry Individual Unit

(b) Blacksmithy Individual Unit.

10. Welding works of which the petitioner submitted his report in my view cannot be covered under the Blacksmithy as mentioned in item No. 28(b) of Annexure P-3. Mr. Bhatia has referred to handbook on Carpentry, Blacksmithy, Aluminium and Non Ferrous Metal Industries issued by Khadi & Village Industries Commission. He refers to Chapter 9 and Item No. 93. Item No. 93 is Arc Welding Unit. While placing reliance on Chapter 9, the caption of Chapter 9 has to be referred to. The same reads as under:- "List of some carpentry and blacksmithy product items."

11. From chapter 9 and very caption thereof and item No. 93 all that can be culled out is that Arc Welding Unit would be one of the items of blacksmithy that, indeed, has to be said, but here the Court is not dealing with an item of blacksmithy and that was also not the purpose for which industrial sheds were to be allotted. As mentioned above in the approved list of industries what is mentioned is blacksmithy and not one of the products of blacksmithy. Even though while filing the petition no reliance was placed on Handbook on Carpentry, Blacksmithy, Aluminum and Non Ferrous Metal Industries but in the interest of justice the Court has gone into the issue simply in view to find that there might not be some injustice caused to the petitioners.

12. In view of the discussion made above, I do not find any merit in this petition and dismiss the same, however, leaving the parties to be their own costs.

13. At this stage Mr. Bhatia informs this Court that inasmuch as petitioner No. 4 was successful in draw of lots and was asked to deposit a sum of Rs. 20,000/- which he did deposit, the said amount is still lying with the respondents and the same should be ordered to be returned. The Court has no doubt that the said amount shall be returned to the petitioner as per agreed rate of interest which, learned counsel for the parties are adidem is 5% per annum. Let the amount alongwith interest be returned to petitioner No. 4 within three weeks from today.

14. Inasmuch as one plot had been kept reserved and was thus, not allotted to anybody, the same be now allotted to a persons who may be at No. 1 in the waiting list.

Sd/-V.K. BaIi, J.