

(2013) 09 P&H CK 0008
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 9694 of 1993

Rajiv Sethi

APPELLANT

Vs

Haryana Urban Development Authority Mani Majra U.T. and
Others

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Citation : (2013) 09 P&H CK 0008

Hon'ble Judges : Satish Kumar Mittal, J; Mahavir S. Chauhan, J

Bench : Division Bench

Advocate : H.N. Mehtani, for the Appellant; Jai Bhagwan Sharma, Advocate, for Mr. Kamal Sharma, Advocate, for respondent Nos. 1 and 2 and Mr. Indresh Goel, Additional Advocate General, Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Mahavir S. Chauhan, J.—Having come to know of a decision taken by respondent Nos. 1 and 2 in the year 1982-83 to allot industrial plots of various sizes at Industrial Area, Phase-II, Panchkula, petitioner made an application dated 20.03.1983 (Annexure P-1) for allotment of a two-Kanal industrial plot in the aforesaid industrial area for manufacture of metal clad switches. The application was accompanied by a project report (Annexure P-2). The 1st respondent, vide letter dated 31.09.1983 (Annexure P-3), conveyed to the petitioner that it had been decided to allot him Plot No. 258 measuring two-Kanal in Industrial Area, Phase-II, Panchkula, subject to approval of his project report by the Industries Department, Haryana. He was also required to deposit 25% (i.e., Rs. 13,750/-) of the total tentative sale price of the plot, which the petitioner deposited vide receipt dated 26.04.1983 (Annexure P-4) and informed respondent No. 2 of the deposit of that amount vide his application of that date, i.e., 26.04.1983 (Annexure P-5). When, in spite of a long wait and repeated rounds of the office of the respondents, nothing came out, the petitioner, vide his application dated 19.04.1985 (Annexure P-6), requested respondent No. 2 to refund the amount of

Rs. 13,750/- with interest to him and undertook to deposit the same in the event of project report submitted by him being passed by the Industries Department. The amount of Rs. 13,750/- was accordingly refunded to him vide cheque dated 27.05.1985. Thereafter, vide letter dated 23.04.1987 (Annexure P-8), respondent No. 1 asked respondent No. 3 to examine the viability of the project reports of the petitioner and others and to send the report so that further steps in the matter could be taken. Responding to the aforesaid communication, respondent No. 3, vide letter dated 18.05.1987 (Annexure P-9), called the petitioner for interview on 23.05.1987. Petitioner approached the office of the Additional Director, Industries, Haryana, at the appointed day and time but no interview was held on that day and he was told that next date of interview would be conveyed to him. Again, vide letter dated 26.05.1987 (Annexure P-10), petitioner was required to appear for an interview before the allotment committee on 08.06.1987 but as conveyed vide letter dated 03.06.1987 (Annexure P-11), the interview so fixed was cancelled and thereafter, the petitioner was never called for any such interview. A lot of communication addressed to the respondents by the petitioner remained inconsequential and ultimately, vide memo dated 09.03.1992 (Annexure P-15), it was conveyed to the petitioner that it had been decided to cancel the offer of allotment of Plot No. 258, Industrial Area, Phase-II, Panchkula. To assail the aforesaid memo dated 09.03.1992 (Annexure P-15), the instant writ petition has been filed by the petitioner.

2. Respondent Nos. 1 and 2 have filed a written statement, wherein it has been stated that withdrawal of amount of initial deposit by the petitioner amounted to withdrawal of his request for allotment of plot, which, even otherwise, could not be allotted to him as the project report submitted by the petitioner was not approved by the Industries Department.

3. No written statement has been filed on behalf of other respondents including respondent No. 3, i.e., the Director of Industries, Haryana.

4. We have heard learned counsel for the parties and have perused the record.

5. It has been argued on behalf of the petitioner that the impugned order dated 09.03.1992 (Annexure P-15) cannot be allowed to sustain and the respondents deserve a direction to allot to the petitioner a two-Kanal industrial plot because the respondents had accepted from the petitioner the initial deposit of Rs. 13,750/- and it was withdrawn by him with a clear stipulation that in the event of his project report being passed, he would deposit the same again and before rejection of the project report submitted by him as also before cancellation of the offer of allotment no opportunity of hearing was afforded to him. It has also been pointed out that Dr. Sanjeev Verma, a similarly circumstanced person, was also denied allotment of an industrial plot. He filed CWP No. 2677 of 1990, wherein, vide order dated 01.10.1990, this Court directed the respondents to deliver possession of the industrial plot offered to him and that being so the petitioner cannot be treated differently.

6. To counter submissions put up on behalf of the petitioner, learned counsel for the respondents have argued that the petitioner having withdrawn the initial deposit, has lost his claim to allotment of the industrial plot to him and, even otherwise, his project report having not been approved by the Industries Department, no allotment could be made in his favour as the offer of allotment was subject to approval of such project report by the Industries Department.

7. It is not disputed that the petitioner had deposited an amount of Rs. 13,750/- as initial deposit for allotment of industrial plot to the respondents and that vide letter dated 31.03.1983 and it was conveyed to the petitioner that it had been decided to allot a plot to him. It is also true that the petitioner, vide his application dated 19.04.1985, requested for refund of the amount of initial deposit with interest but it is also equally true that in that application the petitioner had also stated that he would deposit the amount again if his project report was approved by the Industries Department. It has also remained undisputed that the petitioner was called for interview by the Industries Department to be held on 25.08.1987, i.e., after withdrawal of the initial deposit by him, vide his application dated 19.04.1985 and again for 08.06.1987. However, on the first occasion, the interview was not held even though the petitioner waited for the interview for whole of the day in the office of the Additional Director, Industries, Haryana, and the interview fixed for 08.06.1987 was cancelled vide memo dated 03.06.1987 (Annexure P-11). By calling the petitioner for interview after withdrawal of the initial deposit by him, the respondents have deprived themselves of the plea that after withdrawal of the initial deposit, petitioner had lost his right to ask for allotment of the industrial plot in his favour. At the same time, rejection of the project report of the petitioner and then cancellation of offer of allotment to him without affording an opportunity of hearing also violates the well recognized canons of natural justice that nobody can be condemned unheard.

8. In the circumstances, without commenting on the merits of the case or entitlement of the petitioner for allotment of an industrial plot, we accept the writ petition, set aside memorandum dated 09.03.1992 (Annexure P-15) and direct the respondents to consider the matter afresh after taking into consideration what has been said for and against cancellation of offer of allotment and all other attending circumstances, including the ones that applications were not invited by way of public notice, there existed no scheme for allotment of plots under the discretionary quota and it had been decided by the Government to cancel all the offers of allotment made to various applicants. Before passing the final order, the respondents shall afford an opportunity of hearing to the petitioner and shall dispose of the matter by passing a speaking order, expeditiously, preferably within six months from today. The writ petition is disposed of with the above directions, leaving the parties to bear their own costs.