

(2003) 05 P&H CK 0116
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 160 of 1986

Sat Parkash and Another

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-05-2003

Acts Referred:

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 2
Displaced Persons (Compensation and Rehabilitation) Rules, 1955 — Rule 3A, 67

Citation : (2003) 135 PLR 78 : (2004) 1 RCR(Civil) 95

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : P.N. Aggarwal, for the Appellant; D.V. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Singhvi, J.—Whether the petitioners are entitled to allotment of land under the Punjab Package Deal Properties (Disposal) Act, 1976 (for short, "the 1976 Act") read with the Punjab Package Deal Properties (Disposal) Rules, 1976 (for short, "the 1976 rules") and whether the Chief Settlement Commissioner, Punjab (respondent No. 4) had the jurisdiction u/s 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (for short, "the 1954 Act") to set aside the allotment of land made in their favour are the main questions which arise for determination in this petition filed by Sat Parkash and Om Parkash for quashing orders dated 1st April, 1985 (Annexure P.11) passed by respondent No. 4 and dated 20th August, 1985 (Annexure P.12) passed by the Financial Commissioner, Revenue and Secretary to Government, Punjab Rehabilitation Department (respondent No. 3) respectively.

2. Shri Nanak Chand (grand father of the petitioners) owned 18 acres, 6 kanals and 7 marlas of land in village Chak Chaudhariwala, Tehsil and District Gujranwala (now a part of Pakistan). He had one son namely Shri Kundan Lal, who was married to Smt. Krishnawanti. The petitioners are the sons of Shri Kundan Lal and Smt. Krishnawanti. Shri Nanak Chand is said to have gifted the

entire land to the petitioners because Shri Kundan Lal was of unsound mind. In 1947, Smt. Krishnawanti migrated to India along with the petitioners. At that time, petitioner-Sat Parkash was 11 years of age and petitioner-Om-Parkash was 7 years of age. After 31 years of their migration, the petitioners submitted application dated 12th June, 1978 (Annexure P.1) to the Land Claims Officer, Punjab, Department of Rehabilitation, Jalandhar for consideration of their claim for allotment of land in lieu of land left in Pakistan. The Managing Officer (Lands), Jalandhar rejected their application vide his order dated 23rd June, 1978 on the ground that the same was time barred. The Settlement Commissioner, Punjab accepted the appeal filed by the petitioners and remanded the case to the Managing Officer for fresh decision. The Assistant Registrar (Lands)-cum-Managing Officer, Rehabilitation Department again rejected the claim of the petitioners vide order dated 27th February, 1979 (Annexure P.4) by observing that even though the applicant (petitioners herein) were minor at the time when Mutalba claim could be filed, they were 27 years and 23 years old respectively as on the cut-off date i.e. 31st December, 1963 fixed for filing of application, but they did not do so till June, 1978 and, therefore, their application was liable to be dismissed as barred by time.

3. The petitioners challenged order dated 27th February, 1979 by filing an appeal u/s 22 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (for short, "the 1954 Act"). The Settlement Commissioner, Punjab allowed their appeal vide his order dated 16th July, 1979 (Annexure P-5) and quashed the order passed by the Assistant Registrar (Lands)-cum-Managing Officer. However, instead of remanding the case for fresh adjudication, he referred the matter to the Government on administrative side for taking decision in terms of para 3 of memo No.G.7/R-1 (165) Part-6/7014 dated 7th April, 1976 and directed the petitioners to appear before the Deputy Secretary (Rehabilitation). By an order dated 26th November, 1981, the then Revenue and Rehabilitation Minister, Punjab condoned the delay in filing the application and ordered acceptance of the claim of the petitioners, He directed that they be allotted land in lieu of the property left in Pakistan. Accordingly, Deputy Secretary, Rehabilitation issued memo No.G-7 (1380)/20010 dated 21st December, 1981 for allotment of land to the petitioner. In compliance of the direction given by the Revenue and Rehabilitation Minister, Punjab, the Assistant Registrar (Lands)-cum-Managing Officer, Rehabilitation, Department passed order dated 31st December, 1981 (Annexure P.7) for allotment of 10.4 standard acres of land to the petitioners. He also issued memo Annexure P.8 dated 31st December, 1981 to Tehsildar (Sales), Ludhiana requiring him to make verification before allotting the land. Thereafter, the Tehsildar (Sales) allotted 103 kanals 13 marlas land to the petitioners in village Nurpur Bet, Tehsil Ludhiana. However, physical possession of only 40 kanals and 11 marlas could be given to them because the remaining area was under the ownership of the locals. Vide Annexure P. 10 dated 20th September, 1983, the Tehsildar (Sales)-cum-Managing Officer partly cancelled the allotment made in favour of the petitioners.

4. After taking possession of 40 kanals and 11 marlas and, the petitioners sold 31 kanals 19 marlas to Smt. Lilawati and Miss Karuna, wife and daughter of Girdhari Lal vide sale deeds dated 22nd November, 1982. They sold the remaining land measuring 8 kanals and 12 marlas of land to Sohan Singh and Surain Singh by separate registered sale deeds executed in 1983.

5. The order passed by the Revenue and Rehabilitation Minister, Punjab condoning delay in filing of the claim by the petitioners and the direction given by him for allotment of land to them was reversed by the Governor of Punjab vide his order dated 26th March, 1984. Consequently, a departmental reference was made by the Superintendent (Legal) of Rehabilitation Department vide U.O. No.143589/Legal dated 12th September, 1984 for setting aside order dated 16th July, 1979 passed by the Settlement Commissioner, orders dated 31st December, 1981 passed by the Assistant Registrar-cum-Managing Officer and orders dated 31st March, 1982 and 20th September, 1983 passed by Tehsildar (Sales)-cum-Managing Officer, Ludhiana for allotment of land to the petitioners. On receipt of the reference, respondent No. 4 issued notice to the petitioners u/s 24 of the 1954 Act. They appeared through Shri P.S. Kang, Advocate and contested the proposed cancellation of orders dated 16th July, 1979, 31st December, 1981, 31st March, 1982 and 20th September, 1983 by contending that suo motu reference made by the department was not maintainable and there was no justification to nullify the allotment made in their favour in terms of para 3 of memo dated 7th April, 1976. They also challenged the jurisdiction of respondent No. 4 to revise the order passed by the Settlement Commissioner and to nullify the order passed by the Revenue Minister. The departmental representative supported the suo motu reference by contending that in view of the order passed by the Governor of Punjab cancelling order dated 26th November, 1981 passed by the Revenue and Rehabilitation Minister, the allotment made in favour of the petitioners will be deemed to have become void.

6. Respondent No. 4 accepted the departmental reference vide order Annexure P. 11 and cancelled the allotment made in favour of the petitioners by making the following observations:

"I agree with the representative of the department that powers conferred on this Board by Section 24 of the Displaced Persons (C&R) Act, 1954 can be exercised, even if no fraud etc. in the matter of allotment is attributed to the respondents, to examine the propriety and legality of the orders sought to be reversed, in the light of the ratio of judgments, reported in 1971 AIR 771 S.C., 1976 P.L.J. 443 and 1980 P.L.J. 666. The learned counsel for the respondents has not been able to cite any judgment wherein the ratio of the decision of the Supreme Court in Om Parkash 's case was distinguished by the High Court. So, there is no merit in the contention raised by the learned counsel for the respondents in this behalf. As regards the second contention that the respondents being minor at the time of partition of the country could not file claim in time and in view of the above referred judgments, their claim can be entertained even at present, cannot be

agreed upon, as in the present case, the respondents had become major much before 1963 and moreover their both parents were alive. In case, as argued, the father of the respondents was insane, the mother could file the claim. Even if the respondents had filed any claim or application within three years after attaining majority, it could have been considered by the authorities under the rules. In the present circumstances, Rule 67-A of the Rules *ibid*, clearly debars the entertainment of any fresh application beyond 31st December, 1963 and the present respondents cannot be given any relief at this stage by way of allotment. I am, therefore, inclined to agree with the State representative and accept the reference and set aside the impugned orders dated 16th July, 1979 of the Settlement Commissioner, 31st December, 1981 of the Assistant Registrar-cum-M.D. dated 31st March, 1982 and 20th September, 1983 of the Tehsildar (Sales)-cum-M.D., Ludhiana, as recommended in the reference."

7. The appeal filed by the petitioners u/s 33 of the 1954 Act was dismissed by respondent No. 3 vide her order dated 20th August, 1985 (Annexure P.12), paragraphs 5 and 6 of which are reproduced below:-

"5. I have given my careful consideration to the detailed arguments of the counsel for the petitioners and find that the foremost question which needs to be determined is whether the allotment to the petitioners was ordered by Rehabilitation Minister under the provisions of the Package Deal Act of 1976 and the Rules framed thereunder, or it was made under the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. A reading of Section 2 of the Package Deal Act of 1976 with Rule 3 of the Rules framed thereunder, makes it clear that there is no substance in the contention of the counsel for the petitioners that allotment having been made under the provisions of the Package Deal Act, 1976, could not be set aside by the Chief Settlement Commissioner, a functionary under the Displaced Persons (Compensation and Rehabilitation) Act, 1954. In fact, there is no provision in the Act of 1976 for giving allotment to displaced land holders. Such persons can only be given compensation by way of allotment of rural agricultural land under the provision of the Act of 1954.

6. It is an admitted fact that the petitioners migrated to India in the wake of partition of the country alongwith their mother. They being minors it was incumbent on the mother as their guardian to have filed mutalba azaari on their behalf as required under the provisions of the East Punjab Refugees (Registration of Land Claims) Act; 1948. Significantly, the petitioners did not at any stage move under the above said Act to get their claim duly registered and verified although admittedly they attained the majority in the years 1954 and 1958. For well high more than two decades after attaining the majority, the petitioners did not lay any claim. It is undisputed that it was in 1978 that they first approached the Managing Officer for relief. The only explanation for delay is that the petitioners were minors and were unaware of the fact that they abandoned any land in Pakistan. This contention raised on behalf of the petitioners must fail in

the light of the Division Bench judgment of the Punjab and Haryana High Court in LPA No. 102 of 1986 decided on the 3rd March, 1970, where a similar point had come up to consideration. Since the departmental instructions dated the 7th June, 1974 on which much emphasis has been laid by Shri Mehta are violative of the provisions of the Act of these reasons, the other assertions made by Shri Mehta would not in any way change the legal position. That being the position, the order condoning the delay passed by the Rehabilitation Minister, who is not a functionary under the Act of 1954, cannot be upheld." The grounds of challenge.

8. The petitioners have challenged orders Annexures P. 11 and P. 12 on the following grounds:-

(1) Respondent No. 4 did not have the jurisdiction to entertain the reference made by the department for cancellation of order dated 16th July, 1979 and consequential orders passed by the Assistant Registrar (Lands)-cum-Managing Officer and Tehsildar (Sales) because they were allotted land under the 1976 Act read with the 1976 Rules and not under the 1954 Act read with the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (for short, "the 1955 Rules").

(2) The land allotted to them had vested in the Government of Punjab w.e.f. 1st April, 1961 in terms of the Package Deal and the latter was entitled to impose of it in accordance with the provisions of the 1976 Act and the rules framed thereunder and the authorities of the Rehabilitation Department did not have the jurisdiction to pass any order in respect of such land.

(3) While setting aside order dated 16th July, 1979 passed by the Settlement Commissioner and consequential orders passed by the Assistant Registrar (Lands)-cum-Managing Officer and the Tehsildar (Sales), respondent No. 4 overlooked Rule 3-A of the 1976 Rules which was inserted vide notification No. 2(735)/G-5/1458 dated 20th January, 1979. Similarly, the Financial Commissioner dismissed the revision petition without considering their entitlement to be allotted land in lieu of their unsatisfied claim and this omission on the part of the concerned officers has resulted in failure of justice.

(4) The application filed by them in 1978 could not be rejected on the ground of delay because till then, they did not know about their entitlement to seek allotment of land in lieu of the property left in Pakistan.

(5) Respondent No. 4 did not have the jurisdiction to interfere with the allotment made in their favour ignoring the fact that they had not made any misrepresentation or concealed any fact from the competent authority for the purpose of seeking allotment.

9. The respondents have filed written statement to contest the writ petition. Their stand is that in the years 1981/1982, the petitioners were not entitled to allotment of land because they did not have a verified claim within the meaning of Section 2(c)(1) of the 1954 Act. According to them, the petitioners did not file

any claim under the provisions of the East Punjab Refugees (Registration of Land Claims) Act, 1948 (for short, "the 1948 Act") in lieu of the land abandoned in Pakistan and, therefore, they were not eligible to seek allotment of land by way of compensation. They have averred that even though the petitioners were minor at the time of migration to India, they could have filed claim through their mother under Rule 3 of the East Punjab Refugees (Registration of Land Claims) Rules, 1948 (for short, "the 1948 Rules"), but no such claim was filed. Not only this, even after attaining the majority in the years 1954 and 1958 respectively, they did not file claim and did so after a gap of more than 20 years. The further case of the respondents is that the provisions of the 1976 Act and the rules framed thereunder are not applicable to a case involving determination of the eligibility of a displaced person for allotment of land in lieu of the land abandoned in Pakistan and, therefore, the petitioners cannot rely upon the provisions contained in the said Act and the rules for defending the allotment made in their favour. The respondents have also justified the rejection of the petitioners' claim by the Managing Officer (Land), Rehabilitation Department by asserting that application dated 12th June, 1978 filed by them was clearly barred by time.

10. The petitioners have filed replication reiterating their claim for allotment of land by way of compensation in lieu of the land abandoned in Pakistan. They have further averred that order dated 26th November, 1981 passed by the Revenue Minister could not have been cancelled by the Governor without hearing them. Along with the replication, they have filed affidavit of Shri Parkash C. Ved, Additional Settlement Commissioner-cum-Settlement Commissioner, Punjab (Retd.) to support their plea that the allotment made in their favour was in order.

11. Shri P.N. Aggarwal, learned counsel for the petitioners argued that existence of a verified claim was not sine qua non for allotment of land to the petitioners in terms of the provisions of the 1976 Act and the 1976 Rules and the then Revenue and Rehabilitation Minister, Punjab did not commit any illegality by entertaining their claim and ordering allotment of land to them. In support of this argument, Shri Aggarwal relied on the judgments of this Court in Dalip Singh Naik v. The Financial Commissioner, Revenue, Punjab and Ors. 1987 R.L.R. 71 and Gurinditta v. The Financial Commissioner (Revenue) and Secretary to Government, Punjab and Anr. 1992 P.L.J. 603. Shri Aggarwal referred to letter dated 3rd June, 1961 (Annexure P.13) vide which the Government of India, Ministry of Rehabilitation transferred surplus evacuee land and houses/tours to the Government of Punjab and memo dated 7th April, 1976 (Annexure P.6) issued by the Punjab Government, Rehabilitation Department laying down the policy for allotment of rural evacuee land to the claimants and argued that the allotment made to the petitioners out of the Package Deal Properties was covered by Clause (3) of Annexure P.6 and respondent No. 4 committed a serious illegality by cancelling the allotment on the premise that the Governor, Punjab had rescinded order dated 26th November, 1981 passed by the then Revenue and Rehabilitation Minister, Punjab. Shri Aggarwal invited my attention to the averments contained in paragraph 4 of the written statement of respondent Nos.

1 to 6 to show that the petitioners were owners of 18 acres 6 kanals and 7 marlas of land in village Chak Chaudhariwala and argued that the allotment made in favour of the petitioners vide Annexure P.9 was in consonance with Rule 3-A of the 1976 Rules. He submitted that respondent No. 4 acted beyond jurisdiction when he cancelled the allotment without even making a reference to the said rule. Another argument advanced by Shri Aggarwal is that respondent No. 4 did not have the jurisdiction to entertain the suo motu reference and pass order Annexure P. 11 u/s 24 of the 1954 Act because the petitioners had not been allotted land under the said Act and the rules framed thereunder. In support of this argument, Shri Aggarwal relied on the judgment of the Supreme Court in Pala Singh (Deceased) by Lrs Vs. Union of India (UOI) and Others, and of this Court in Ram Chander v. State of Punjab 1968 Cri.L.J. 668 and Bishan Singh and Ors. v. Chief Settlement Commissioner, Punjab and Ors. 1973 R.L.R. 222. In the end, Shri Aggarwal argued that application dated 12th June, 1978 made by the petitioners for allotment of land as displaced persons cannot be termed as belated because till then, they did not know about their entitlement to seek allotment of land. Learned counsel referred to the averments contained in paragraph 9 of the writ petition to show that the petitioners became aware of their right to seek allotment when Shri Narinder Nath resident of Jalandhar contacted their family.

12. Shri D.V. Sharma, learned Additional Advocate General, Punjab, defended the impugned orders and argued that respondent No. 4 did not commit any jurisdictional irregularity by entertaining the suo motu reference made by the department for cancellation of the allotment made in favour of the petitioner because order dated 26th November, 1981 passed by the then Revenue and Rehabilitation Minister was void ab initio and the same had been cancelled by the Governor vide order dated 12th September, 1984. Shri Sharma pointed out that the petitioners have not made prayer for quashing the order passed by the Governor and argued that without challenging that order, they cannot seek a direction for sustaining the allotment made in their favour in pursuance of order dated 26th November, 1981 passed by the Minister. Shri Sharma relied on orders dated 3rd March, 1970 passed in Hari Chand v. Union of India and Anr., L.P.A. 102 of 1966, dated 15th January, 1973 passed by a Division Bench in Smt. Shiv Devi v. Central Government and Ors., C.W.P. No. 1239 of 1972 and argued that the petitioners were not entitled to allotment of land because they did not have a verified claim and also because they did not apply for allotment in terms of Rule 67-A of the 1955 Rules. Shri Sharma further argued that the petitioners do not have the locus standi to challenge the cancellation of allotment made in their favour because immediately after taking possession of 40 kanals 11 marlas of land, they have sold the same to different vendors.

13. In the context of the last submission made by Shri D.V. Sharma, I enquired from Shri Aggarwal whether Smt. Lilawati and Miss Karuna wife and daughter of Gifdhari Lal and Sohan Singh and Surain Singh have filed any action against the petitioners seeking refund of the price paid by them for purchasing the disputed

land. In reply, Shri Aggarwal stated that he is not aware of any such litigation.

14. I have given serious thought to the respective arguments.

15. Before dealing with the arguments of the learned counsel, I consider it proper to notice the relevant statutory provisions. The 1948 Act was enacted with a view to rehabilitate and compensate those," who had suffered during partition and had to migrate from the territory which is now known as Pakistan. Section 2(d) of the 1948 Act contains the definition of the term "refugee" and Section 4 thereof provides for registration of land claims. These two provisions along with Rule 3 of the 1948 Rules are reproduced below:-

"Sections 2(d) and 4 of the 1948 Act.

2(d) "refugee" means a land-holder in the territories now comprised in the Province of (Punjab in Pakistan), who or whose ancestor migrated as a colonist from the undivided Punjab since 1901, to the Provinces of North-West Frontier Province, Sind or Baluchistan or to any State adjacent to any of the aforesaid Provinces and acceding to Pakistan, and who has since the 1st day of March, 1947, abandoned or been made to abandon his land in the said territories on account of civil disturbances, or the fear of such disturbances, or the partition of the country;

4. Registration of land claims.- (1) A refugee may submit to the Registering Officer on the prescribed form and supported by an affidavit an application for the registration of his claim in respect of his land abandoned by him, or which he has been made to abandon:

Provided that a refugee who has previously submitted a claim under Ordinance VII of 1948, to any other authority competent to register such claim shall not submit another claim in respect of the same land to the Registering Officer.

(2) The Registering Officer shall thereupon register his claim.

Rule 3 of the 1948 Rules.

A claim application shall be presented to the Registering Officer by the applicant either in person or through a recognised agent or sent by registered post. In case of a minor, applications for claims shall be submitted in the aforesaid manner by his next friend or guardian."

16. The 1954 Act was enacted by the Parliament to provide for payment of compensation and rehabilitation grant to displaced persons and for matters connected therewith. Sections 2(e), 4 of the 1954 Act and Rule 67-A of the 1955 Rules, which have bearing on this case, read as under:-

"Sections 2(e) and 4 of the 1954 Act.

2(e) "verified claim" means any claim registered under the Displaced Persons (Claims) Act, 1950 (XLV of 1950) in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary

Act, 1954 (12 of 1954), and includes any claim registered on or before the 31st day of May, 1953 under the East Punjab Refugees (Registration of Land Claims) Act, 1948 (East Punjab Act, (XII of 1948) or under the Patiala Refugees (Registration of Land Claims) Ordinance, 2004 (Order 10 of 2004 BK) and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in Section 10 of this Act, but does not include-(i) any such claim registered in respect of property held in trust for a public purpose of a religious or charitable nature;

(ii) except in the case of a banking company for the purpose of Sub-clause (i) of Clause (b) of Sub-section (3) of Section 6, only-

(a) any such claim made by or on behalf of any company or association, whether incorporated or not;

(b) any such claim made by a mortgagee or other person holding a charge or lien on immovable property belonging to a displaced persons in West Pakistan;

*** ** 4. Application for payment of compensation.- (1) The Central Government shall, from time to time, but not later than the thirtieth day of June, 1955, by notification in the Official Gazette, require all displaced persons having verified claim to make applications for the payment of compensation and any such notification may be issued with reference to displaced persons residing in any State or in any one of a group of States.

(2) Every displaced person who, by a notification issued under Sub-section (1) is required to make an application for the payment of compensation shall make such application in the prescribed form to the Settlement Officer having jurisdiction, within three months of the date of the notification:

Provided that the Settlement Officer may entertain any such application after the expiry of the said period of three months, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(3) An application for the payment of compensation under this section shall contain the following particulars, namely:-

(a) the name and address of the applicant;

(b) the amount of the verified claim;

(c) the encumbrances, if any, on the property to which the verified claim relates;

(d) the form in which the applicant desires to receive compensation;

(e) the amount, if any, of the public dues recoverable from the applicant;

(f) the property, if any, allotted or leased to the applicant by the Central

Government or a State Government or by the Custodian;

(g) such other particulars as may be prescribed.

(4) Any notification issued by the Central Government before the commencement of this Act requiring displaced persons of any class or description to make applications for the payment of compensation, shall be deemed to have been issued under this section and all applications for the compensation made in pursuance of any such notification shall be deemed to have been made under this section and any proceeding in relation to any such application pending at the commencement of this Act shall be disposed of in accordance with the provisions of this Act:

Provided that a displaced person who made an application for payment of compensation before the commencement of this Act may, within one month of such commencement, intimate in writing to the officer or authority to whom the application was made or the successor-in-officer of any such officer or authority, the form in which he desires to receive the compensation.

Rule 67-A of the 1955 Rules. Compensation to displaced persons from West Punjab, etc. in respect of agricultural land- Notwithstanding anything contained in this Chapter a displaced person from West Punjab or a displaced person who was originally domiciled in the undivided Punjab, but who before the partition of India had settled in North West Frontier Province, Baluchistan, Bahawalpur or Sind, whose verified claim in respect of agriculture land has not been satisfied or has been satisfied only partially by the allotment of evacuee land under the relevant notification specified in Section 10 of the Act shall not be paid compensation in any form other than the transfer of acquired evacuee agricultural land and rural houses and sites in the State of Punjab or Patiala and East Punjab States Union in accordance with the scales specified in the quasi-permanent allotment scheme operating in those States:

Provided that the displaced person applies for payment of compensation in such form not later than the 31st day of December, 1963:

Provided further that if any person has been allotted land in a State other than Punjab and his land claim has not been satisfied fully, he may for the remaining claim either be allotted land due to him in that State or issued a Statement of Account which he may utilise for purchase of property forming part of the Compensation pool or for adjustment of public dues."

17. The 1976 Act was enacted by the Legislature of Punjab to make provisions for disposal of the properties taken over by the Government of Punjab in Package Deal and for matters connected therewith. Section 4 of the 1976 Act and Rule 3-A of the 1976. Rules read as under:-

"Section 4 of 1976 Act.

4. Power to transfer package deal property.- (1) Subject to any rules that may be

made under this Act, the Tehsildar (Sales) or Naib Tehsildar (Sales) may transfer any package deal property:

(a) by sale by public auction;

(b) by sale by auction restricted to socially and educationally backward classes of citizens notified by the State Government from time to time or the members of the Scheduled Castes;

(c) by sale to such class of occupants and at such price as the State Government may by general or special order specify;

(d) by sale to any co-operative society, Government company or local authority or to any corporate body for a public purpose;

(e) by lease on such terms and conditions as may be prescribed; or

(f) in such other manner as may be prescribed:

Provided that, except in the case of a sale under Clause (d), the maximum area that may be transferred to any person, including the area if any already owned by him; shall not exceed five standard acres or ten ordinary acres, whichever may be less:

Provided further that no transfer shall be made Benami.

(2) For the purpose of transferring any package deal property under Sub-section (1), the Tehsildar (Sales) or Naib Tehsildar (Sales) may transfer the same to any person individually or jointly with any other person or persons.

(3) Every Tehsildar (Sales) or Naib Tehsildar (Sales) selling any package deal property to public auction or otherwise under Sub-section (1) shall not be deemed to be a Revenue Officer within the meaning of Sub-section (1) shall not be deemed to be a Revenue Officer within the meaning of Sub-section (4) of Section 89 of the Registration Act, 1908 (XVI of 1908).

Rule 3-A of the 1976 Rules-Allotment of rural land to unsatisfied displaced land holders.- The rural land which is not transferred on the basis of possession may in the first instance be allotted to unsatisfied displaced land holders."

18. A reading of the provisions reproduced above shows that the 1948 Act provides for lodging of claims by refugees land holders, their registration and investigation by the designated authority. The manner and mode of submission of claim applications has been prescribed under Rule 3 of the 1948 Rules. In the cases of a minor, application for claim can be submitted by his next friend or guardian. Section 2(e) of the 1954 Act talks of verified claim which includes claim registered under the 1948 Act. Rule 67-A which was inserted vide notification dated 26th October, 1956 contains a non obstante clause and provides for satisfaction of the claim in respect of the agricultural land. First proviso to this rule which was added by notification dated 24th September, 1963 postulates filing of application by the displaced persons latest by 31st December,

1963. These provisions show that a displaced person can claim compensation only on the basis of the verified claim. In other words, if a person does not hold a verified claim he cannot be granted compensation.

19. In Hari Chand's case (supra), a Division Bench rejected the prayer made by the appellant-petitioner for directing the respondents to allot land to him being a displaced person. While confirming the order of the Single Bench which had dismissed the writ petition by the appellant, the Division Bench observed as under:-

"This Act provides for the lodging of the claims by the refugee landholders, their registration by the Land Claims Officer and investigation there into by the authority. Section 4 of the said Act provides that a refugee may submit to the Registering Officer on the prescribed form duly supported by an affidavit an application for the registration of claim in respect of his land abandoned by him. Detailed rules have been framed under the Act providing for the manner and the mode of submission of such applications. Rules 2 and 3 of the said Rules provide that the claim applications shall be made in the form given in Appendix "A" thereto and further that such claim applications shall be duly presented to the Registering Officer. It was further provided that in case of a minor, application for claims shall be submitted in the aforesaid manner by his next friend or his guardian. Significantly, the appellant did not at any stage move under the above said provisions to get his claim duly registered and verified. It is conceded that instead of complying with the statutory requirements of the above-said provisions, he merely approached the Managing Officer who in the context of the fact that he did not possess any verified claim refused him any relief. This order was rightly upheld by the higher authorities. It is significant to note that under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, the jurisdiction to grant compensation by the authorities thereunder arises qua displaced persons who are verified claimants. In the absence of this pre-requisite qualification the appellant was thus patently ineligible to claim compensation under the provisions of the 1954 Act."

20. A similar view was expressed in Shiv Devi v. Central Government, C.W.P. No. 1239 of 1972, decided on 15th July, 1973. In that case, a Division Bench held that a displaced person, who comes forward for obtaining allotment in lieu of land abandoned in Pakistan must fulfil two requirements. Firstly, he should hold a verified claim and secondly, he should have made an application for allotment to satisfy wholly or partially unsatisfied claim before 31st December, 1963 as envisaged under Rule 67-A of the Rules and if either of the two conditions is not satisfied, then he/she cannot claim allotment of land in lieu of abandoned land in Pakistan.

21. In Dalip Singh Naik's case (supra), a learned Single Judge referred to an earlier decision in Shri Brij Lal and Anr. v. Chief Settlement Commissioner, Chandigarh, C.W.P. No. 1412 of 1962, decided on 28th February, 1963 and held that even if a displaced person does not hold a verified claim, he is entitled to be

allotted land in lieu of the land left behind in Pakistan on the basis of entries in jamabandi received from Pakistan.

22. In Gurinditta's case (supra), another learned Single Judge referred to the decision in Brij Lal's case (supra) and reiterated the view expressed in Dalip Singh Naik's case (supra).

23. From a perusal of the two judgments relied upon by Shri Aggarwal, it is clear that the attention of the learned Single Judge was not drawn to the order passed by the Division Benches in Shiv Devi's case (supra) and Hari Chand's case (supra). Shri Aggarwal says that L.P.A. No. 27 of 1987 filed against the order of the learned Single Judge in Dalip Singh Naik's case (supra) was dismissed by the Division Bench on 22nd August, 1988, but that order has not been placed before me. Therefore, it is not clear whether the Division Bench had dismissed the Letters Patent Appeal filed by the State after notice to the writ petitioner and after considering the orders passed by earlier Division Benches in Shiv Devi's case (supra) and Hari Chand's case (supra).

24. In my opinion, the orders passed in Dalip Singh Naik's case (supra) and Gurinditta's case (supra) cannot be made basis for granting relief to the petitioners because the view expressed by the learned Single Judges on the interpretation of the provisions of the 1948 and 1954 Acts runs contrary to the one expressed by the Division Bench in Shiv Devi's case (supra) and Hari Chand's case (supra) and in view of the law laid down by the Division Benches, it must be held that the existence of a verified claim and submission of application by the claimant before the appointed date i.e. 31st December, 1963 constitutes a condition precedent to the allotment of land to the displaced person.

25. In the petitioners' case, neither of the two conditions has been satisfied. Therefore, they were not eligible to be allotted land as displaced persons.

26. The plea of the petitioners that allotment of land in their favour should be treated as the one made under Rule 3-A of the 1976 Rules sounds attractive, but lacks merit. That rule postulates allotment of rural land to unsatisfied displaced land holders. The use of expression "unsatisfied displaced persons" clearly implies that a persons seeking allotment of land as displaced person is eligible to such allotment and has not been able to get allotment under the relevant provisions of law including the 1954 Act. Therefore, the entitlement of a displaced person who seeks allotment land has to be determined with reference to the provisions of the 1948 and 1954 Acts which clearly postulate existence of a verified claim. Thus, the petitioners, who did not hold a verified claim at any stage were not entitled to allotment of land under Rule 3-A of the 1976 Rules.

27. The reliance by the petitioners on the policy contained in letter dated 7th April, 1976 is clearly misconceived. That policy envisaged allotment of land to the persons, who had not filed "mutaliba land claim" upto 31st December, 1963, but whose applications and cases were of prior dates and remained pending due to some reasons. Clause (2) of letter dated 7th April, 1976 made it clear that where

the application had not been filed before 31st December, 1963, the claim case was to be consigned to the records. Clause (3) did give power to the Government to make departure in exceptional cases, but in my opinion, the same cannot be relied upon for sustaining the allotment made in favour of the petitioners because the administrative decision taken by the Government did not have the effect of amending Rule 67-A of the 1955 Rules under which 31st December, 1963 was specified as the cut off date for filing applications for allotment of land.

28. There is another reason for not entertaining the petitioners' claim with reference to the policy contained in letter dated 7th April, 1976. The order passed by the then Revenue and Rehabilitation Minister, Punjab for condonation of delay in filing of the application by the petitioners and direction issued by him for allotment of land was set aside by the Governor vide his order dated 26th March, 1984. That order has neither been placed on the record nor any prayer has been made for quashing the same. Therefore, the allotment made in favour of the petitioners on the strength of order dated 26th November, 1981 passed by the then Revenue and Rehabilitation Minister, Punjab cannot be upheld.

29. I am also inclined to accept the objection raised by Shri D.V. Sharma to the maintainability of the writ petition on the ground that the petitioners do not have locus standi to challenge the impugned orders. Admittedly, they had disposed of 40 kanals 11 marlas land of which possession was given to them in pursuance of allotment made in December 1981. Having disposed of the land, the petitioners cannot now complain against the order of cancellation, more-so because the transferees have not initiated action against them for recovery of the sale price.

30. The objection raised by the petitioners to the suo motu action initiated u/s 24 of the 1954 Act was overruled by respondent No. 4 by placing reliance on the judgment of the Supreme Court in *Om Prakash and Others Vs. Union of India (UOI) and Others*, and two judgments of this Court in *Bal Krishan Mukhi v. Commissioner, Revenue, Haryana State and Anr.* 1976 P.L.J. 443 and *Labhu Ram (Dead) represented by his L Rs. v. Chief Settlement Commissioner, Punjab and Ors.* 1980 R.L.R. 392. In the case of *Om Parkash*, the Supreme Court interpreted Section 24 of the 1954 Act and held that even where the allotment is not vitiated by any fraud or false representation or concealment of any material fact, the Chief Settlement Commissioner can exercise revisional power u/s 24.

31. The judgment of the Supreme Court in *Pala Singh's case (supra)* and of this Court in *Ram Chander's case (supra)* do not have any bearing on the case in hand because the material brought on the record of this case does not show that the land allotted to the petitioners was a part of Package Deal Property.

32. Before concluding, I consider it necessary to observe that the explanation given by the petitioners for filing their claim on or before the cut off date, i.e., 31st December, 1963 is wholly unsatisfactory and unconvincing. The averments contained in paragraphs 9 of the writ petition suggesting that the petitioners came to know about their entitlement to seek allotment in May, 1978 through

Narinder Nath do no inspire confidence and cannot be relied upon for approving the decision of the then Revenue and Rehabilitation Minister (copy not placed on record) to condone the delay of almost 15 years counted from the cut off date because Shri Narinder Nath has been brought into picture for the first time at the stage of filing of the writ petition. His alleged meeting with the petitioners does not find mention in application Annexure P.1 and other documents placed on record. Thus, the new ground concocted by the petitioners to explain the delay cannot be accepted for sustaining the allotment made in their favour in 1981.

33. No other point has been argued.

34. For the reasons mentioned above, the writ petition is dismissed.