
(2000) 01 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2903 of 1993

Smt. Nisha

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 20-01-2000

Acts Referred:

Citation : (2001) 4 RCR(Civil) 40

Hon'ble Judges : Iqbal Singh, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : Mr. G.S. Bhatia, for the Appellant; Mr. Rupinder Khosla, D.A.G., Mr. R.C. Setia and Mr. Sanjiv Sharma, for the Respondent

Judgement

G.S. Singhvi, J.—These writ petitions have been filed for quashing of the demand notices issued by the Punjab Small Industries and Export Corporation Limited (for short "the Corporation") vide which the petitioners have been called upon to pay the enhanced price of the plots allotted to them.

2. The following are the main grounds on which the petitioners have challenged the impugned demand notices :

(a) the Corporation had allotted plots to them with a clear understanding that there will be no revision of the price and, therefore, it is estopped from charging the enhanced cost; and

(b) the Corporation is bound to give the benefit of rebate/incentive and land subsidy in accordance with the conditions contained in the letters of intent issued to them.

3. The respondent-Corporation and the Estate Officer have defended their decision to charge the enhanced cost by asserting that the plots were allotted to the petitioners on tentative price with a clear stipulation that they will have to pay the additional price if enhanced compensation is to be paid to the land owners in pursuance of the order/judgment of the competent Court. They have

also controverted the petitioners' prayer for grant of rebate/incentive and land subsidy. Along with the written statement, the contesting respondents have filed a statement showing the details of the enhanced compensation to substantiate their case that the demand of enhanced price is justified.

4. During the course of hearing, learned Counsel for the petitioners argued that their clients will feel satisfied if respondent-Corporation is directed to furnish the details of the calculations on the basis of which the impugned demand notices have been issued and they are given an opportunity to make representation against such calculations and they are also allowed to make claim for grant of rebate/incentive and land subsidy in accordance with the conditions contained in the letters of allotment.

5. Learned counsel for the respondents submitted that the Corporation does not have any objection to the furnishing of calculations to the petitioners. They also stated that the representations, if any, made by the petitioners will be decided by the Corporation in accordance with law.

6. In view of the submissions made by the learned Counsel, we do not consider it necessary to record a detailed order and feel that the ends of justice would be met by directing the Corporation to furnish the details of calculations made by it for raising the demand of enhanced price and to give opportunity to the petitioners to make representative for challenging such calculations and also to make the claim for rebate/incentive and land subsidy with a further direction that the competent authority of the Corporation shall hear such of the petitioners who may make a written request for that purpose and decide their pleas by passing a speaking order. This course of action is consistent with the law laid down by this Court in *Surinder Singh v. State of Punjab and another*. 1998(1) RCR 89 : 1997(2) PU 477 and *Harbinder Ba-jwa v. State of Haryana* 1997(1) RCR 417 (P&H) : 1996(3) PLR 621.

7. In *Surinder Singh's* case (*supra*) a Division Bench dealt with the issues similar to those raised in the present cases and while accepting the prayer of the petitioners for quashing of the demand notices, the Court gave the following directions :

"17. Resultantly, in view of the observations made above :

(1) The respondent would be entitled to take penal action of resumption only after the demand notice is served individually and not complied with and not on the basis of service through publication. The mode of individual service may be deter-, mined by the authorities according to the facts and circumstances of each case as to when the action arises.

(2) The additional price would be enhanced compensation, the expenses incurred in defending or prosecuting the claim along with any other ancillary or expenditure in connection with or incurred thereof. It is this additional price w.hich can be charged or levied upon plot holders, and could be charged.

(3) Before fixing the additional price, the respondents would disclose the basis of such calculations, if anybody demands it. The respondents would invite objections with respect to the additional price proposed to be assessed before finally fixing the additional price. It can be the discretion of the authorities after considering the peculiar facts and circumstances and the voluminous nature of the task, to grant an opportunity of personal oral hearing before finally fixing the additional price. While exercising such discretion, appropriate reasons for not granting an opportunity of personal hearing would be recorded in writing.

(4) The respondent-authorities would be liable to permit inspection of the record with respect to the proceedings for fixing the additional price and show the mode of statistics in which the tentative price was fixed. It may be clarified that the allottees would be entitled to inspect the record to know as to how the additional price has been worked out.

(5) The petitioners would be at liberty to raise all objections, including those pointed out in the earlier part of the judgment before the authorities, in addition to any other objections they may propose to raise with regard to calculation of additional price. It is made clear that it is for the authorities to decide after observing the principles of natural justice as to the persons from whom the additional price would be charged the amount chargeable, the modalities of receiving charges, the process of assessing additional price or making exceptions from paying additional price."

8. In Harbinder Bajwa's case (supra) the Court held that the petitioners are entitled to seek inspection of the record relating to calculation of the price.

9. In view of what we have mentioned above and the decisions rendered in Surinder Singh's case (supra) and Harbinder Bajwa's case (supra), we dispose of these writ petitions with the following directions :

(1) Within two months from today the respondent-Corporation shall furnish to each of the petitioners the details of calculations made for arriving at the figure of enhanced price chargeable from the petitioners in respect of the land allotted to them. Along with the calculations, full particulars of the judgment/award under which the enhanced compensation had been paid or is payable by the Corporation should be disclosed to the petitioners;

(2) Within seven days of the receipt of calculations from the Corporation, the petitioners may make written application for inspection of the relevant records and the competent authority of the Corporation shall allow inspection of the records to the applicants within next three weeks;

(3) The petitioners shall be entitled to file representation questioning the correctness of the calculations made by the Corporation and at the same time they shall be entitled to make a prayer for the grant of benefit of rebate/incentive and land subsidy in accordance with the letters of intent. The petitioners shall be free to raise other points including the plea of estoppel

against the charging of enhanced price. Such representations shall be made within a period of three months from the date of receipt of the calculations;

(4) If any of the petitioners makes a written request for the grant of opportunity of personal hearing then the competent authority of the respondent-Corporation shall hear such petitioners after giving a notice of the date, time and place for such hearing;

(5) After hearing the petitioners, the competent authority of the respondent-Corporation shall pass a speaking order indicating its reasons for accepting or non-accepting their claim with regard to payment of the enhanced additional price/enhanced costs, rebate/incentive and land subsidy; and

(6) The order passed by the Corporation shall be communicated to individual petitioner, requiring him/her/them to pay the additional price, if any, long with the interest payable as per the policy of the Corporation prevalent on the relevant date.

10. Any of the petitioners, who may feel aggrieved by the decision of the Corporation shall be entitled to avail appropriate legal remedy.

11. Order accordingly.