

TO BE REFERRED TO THE REPORTERS

Dismissed

Case No. 82977
Date: 20/07/16 W-8
HUDA, HQ. Panchkula

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. State of Haryana through Addl. Chief Secretary to Govt. of Haryana, Town & Country Planning & Urban Estates, Departments, Sector 17 Chandigarh
2. Chief Administrator, Haryana Urban Development Authority, Sector 6 Panchkula
3. Administrator, HUDA Rohtak exercising the powers of Chief Administrator, Haryana Urban Development Authority, Sector 6 Panchkula.
4. Estate Officer, HUDA District Rohtak.

Subject:- CWP No. 6377 of 2016

Badan Singh

Petitioner(s)

Versus

State of Haryana and others

Respondent(s)

I am directed to forward herewith a copy of order dated 27.4.2016 passed by the Hon'ble High Court in the above noted Civil Writ Petition, for immediate strict compliance.

Given under my hand and the seal of this court on this 24th day of May, 2016.

BY THE ORDER OF HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SUPERINTENDENT
FOR ASSISTANT REGISTRAR



IN THE HON'BLE HIGH COURT FOR THE STATE OF
PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 104 of 2016

MEMO OF PARTIES

Badan Singh S/o Sh. Ram Datt, resident of
B.P.O. Faridpur, Tehsil Uklana, District Hisar,
Haryana.

---Petitioner

Versus

1. State of Haryana through Addl. Chief
Secretary to Govt. of Haryana, Town &
Country Planning & Urban Estates,
Departments, Sector 17 Chandigarh
2. Chief Administrator, Haryana Urban
Development Authority, Sector 6 Panchkula
3. Administrator, HUDA Rohtak exercising the
powers of Chief Administrator, Haryana
Urban Development Authority, Sector 6
Panchkula.
4. Estate Officer, HUDA District Rohtak.

---Respondents

Chandigarh
Dated:31.3.2016

(RAJESH KHANDELWAL)
Advocate
Counsel for the petitioner

Civil Writ Petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the impugned order dated 23.10.2013 (**Annexure P-6**) vide which plot of the petitioner was resumed and his 10% earnest amount was also forfeited and also for setting aside the order dated 29.04.2015 (**Annexure P-10**) passed by Administrative HUDA Rohtak exercising the power of chief Administrator HUDA in appeal vide which appeal of the petitioner was dismissed and plot in question be restored to the petitioner which was allotted to him vide allotment letter dated 15.02.2013 and impugned order dated 16.2.2016 (**Annexure P-12**) passed by revisional authority i.e. respondent No.1.

AND

For issuance of a writ in the nature of mandamus directing the respondents to allot any other plot measuring from 4 to 8 Marlas on the ground of equity and fair play and his earnest money which has been illegally and wrongly forfeited may be adjusted against the plot measuring from 4 to 8 Marlas, if respondents opt to give any alternate plot to the petitioner.

Or

Any other writ, order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the present case may kindly be passed.

Respectfully Showeth:-

1. That the petitioner is resident of above said address and being the citizen of India, is entitled to

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.6377 of 2016
Date of decision: 27.04.2016

Badan Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Rajesh Khandelwal, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J.

A writ in the nature of certiorari is prayed for to quash the orders, dated 23.10.2013 (Annexure P6), vide which the residential site that was proposed to be allotted to the petitioner was cancelled; dated 29.04.2015 (Annexure P10), whereby the appeal preferred against the said order was dismissed by the appellate authority; as also dated 16.02.2016 (Annexure P12), vide which the revisional authority dismissed even the revision filed by the petitioner. And also a writ of mandamus, directing the authorities to consider the claim of the petitioner, alternatively, for allotment of a plot in 4-8 marlas category.

Petitioner had applied for allotment of a plot measuring 14 marlas in the Defence Category (DEPER/Pafor). He succeeded in the draw of lots and consequently a plot bearing No.97, Sector 5, Rohtak (DEPER/Pafor category), was earmarked by the authorities for the petitioner. Vide letter dated 15.02.2013 (Annexure P1), he was required to furnish the requisite documents, in original, in support of his claim so that a regular letter of allotment could be issued in his favour. Petitioner submitted the documents on 01.03.2013. But, on scrutiny, it was found that the petitioner had retired on 01.06.1990, as Ex-serviceman SI, and, thus, he was not eligible to apply for a 14 marlas plot. And he could seek allotment only in 4 to 8 marlas category. Petitioner was afforded an opportunity of personal hearing on 04.09.2013 and then on 11.10.2013, to explain his position, which he did not choose to avail. Resultantly, Estate Officer, HUDA, Rohtak (respondent No.4) cancelled the proposed allotment and forfeited 10% of the amount deposited by the petitioner. That is how, appeal as also the revision filed by the petitioner against the said order were also dismissed. However, the revisional authority ordered refund of the earnest money deposited by the petitioner with interest, for the site was cancelled only on account of his ineligibility. Concededly, the petitioner had applied in the wrong category and, thus, the only and the inevitable option before the authorities was to cancel the proposed allotment.

Records show that before the draw was held, the registration number, size and the categories in which the applicants had applied were uploaded on the website of the authorities (HUDA). And vide a public notice, published in the newspapers, the applicants were requested to check the necessary details set out in their applications, so that in the event of any error, the authorities could be informed to rectify the mistake. Concededly, petitioner never intimated the authorities that he had applied in a category for which he was not eligible. Further, in terms of the conditions set out in the information brochure, the applicants were not required to submit the requisite documents, as regards their eligibility, at the time of submission of their applications, for those were to be furnished, after the draw, by the successful applicants only. And, a regular letter of allotment was to be issued, only to those, who were found eligible and entitled thereto. Thus, it was not a case, where even though the petitioner had wrongly applied in a 14 marla category, but the authorities could still detect the error after sifting through the documents appended with his application. Undoubtedly, petitioner succeeded in the draw, and furnished the requisite documents for scrutiny. For, he was concededly ineligible to seek allotment in 14 marlas category, his claim was rejected. The prayer in the alternative; that the authorities be directed to allot a plot admeasuring 4-8 marlas to the petitioner, also lacks conviction, for the petitioner never applied in the said category. The authorities cannot be accused of any lapse, for petitioner is the victim of his own negligence.

That being so, we are dissuaded to interfere with the discretion exercised by the authorities, in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. The petition being devoid of merit is accordingly dismissed.

Sd/- (S.J. VAZIFDAR)
ACTIN G CHIEF JUSTICE

Sd/- (ARUN PALLI)
JUDGE

27.04.2016
Rajan

Seen
4/7/2016

