



CWP-7969-2019 (O&M)

[1]

2025:PHHC:045387-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-7969-2019 (O&M)

Reserved on: 13.02.2024

Pronounced on: 03.04.2025

Dr. ANIL BANSAL

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Sanjiv Sharma, Advocate and
Mr. Tushar Sharma, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. A.G. Haryana with
Ms. Svaneel Jaswal, Addl. A.G. Haryana,
Mr. P.P. Chahar, Sr. DAG, Haryana.
Mr. Saurabh Mago, DAG, Haryana.
Mr. Gaurav Bansal, DAG, Haryana and
Mr. Karan Jindal, AAG, Haryana.

Mr. Arvind Seth, Advocate and
Mr. Ashish Rampal, Advocate
for respondents No.2 to 5 (HSVP).

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner prays for the quashing/setting aside the order dated 08.09.2017 (Annexure P-21) passed by respondent No.5-EO; minutes of meeting dated 14.01.2019 (Annexure P-23), besides the allotment letter dated 08.03.2019 (Annexure P-25) issued to the petitioner to the extent that the allotment price of the plot is being charged at the current price instead of the price mentioned in the Letter of Intent dated 22.03.2000 (Annexure P-2), as also the consequential cancellation order dated 06.07.2019 (Annexure



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P-30) passed by respondent No.5-EO. The petitioner has further, prayed for a writ of mandamus directing the respondents to issue allotment of the plot to the petitioner on the price, mentioned in the Letter of Intent dated 22.03.2000 (Annexure P-2).

Factual Background

2. In June 1999, the respondent-State of Haryana issued an advertisement inviting application for allotment of various hospital sites located at Gurugram (then Gurgaon), Faridabad and Panchkula. The site at Gurugram measured 10 acres and the tentative allotment price of the plot was mentioned as Rs.10,03,81,600/-. It was also mentioned therein that the preference will be given to Cardiology and Cardio-thoracic.

3. In pursuance to the said advertisement, the petitioner applied and deposited the required earnest money of Rs.1,00,38,160/- and after having been found eligible and deserving by the respondent-authority, the petitioner was issued Letter of Intent dated 22.03.2000 (Annexure P-2). As per the terms thereof, the petitioner was required to deposit another sum of Rs.1,50,57,240/- within a period of 30 days. Accordingly, the petitioner deposited the said amount on 20.04.2000. The respondent-authority was required to provide the zoning plan of the site to the petitioner on the basis of which the building plan was to be submitted by the petitioner but, the respondent-authority failed to provide the zoning plan for more than 2 years despite the petitioner having made various representations and requests and it was only vide



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letter dated 25.09.2002 (Annexure P-6) that the petitioner was informed that the zoning plan has been approved vide letter dated 03.07.2002 by respondent No.3-Chief Administrator and that the petitioner should get the building plans sanctioned within a period of 15 days. It was absolutely impossible for the petitioner to get the building plans sanctioned within such a short time period simply because, hence for getting the plans prepared for a project spread across an area of 10 acres, thus at least 15-20 days, rather would become consumed.

4. To cover up its own faults, respondent No.5-Estate Officer withdrew the LOI vide order dated 13.08.2003 whereagainst the petitioner preferred an appeal, which however was dismissed. Moreover, the revision petition filed thereagainst by the petitioner was allowed vide letter dated 18.06.2004. Resultantly, the petitioner was given a time period of three months to comply with the other terms and conditions of the LOI. In sequel, the petitioner submitted the building plans and also requested for the issuance of a regular letter of allotment and for handing over the possession of the plot, so that, the project could be proceeded with. The petitioner also submitted letters from Lord Krishna Bank and Bank of India respectively offering credit facility of Rs.25 Crore and Rs.20 Crore, in case the regular letter of allotment is issued in favour of the petitioner.

5. Despite that petitioner was directed to appear before respondent No.5-EO on 23.11.2004, on the ground, that the respondent-HUDA is not satisfied with proof of finance submitted by the petitioner. The petitioner remained present in the office respondent No.5-EO, on



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23.11.2004, and for the entire day officer did not turn up. Resultantly, the petitioner submitted a letter dated 23.11.2004 (Annexure P-14), stating that the next date be intimated to him through registered post. The said letter was duly received by respondent-HUDA. Vide file noting dated 24.06.2005 (Annexure P-15/B), the then EO requested respondent No.4-Administrator, to issue allotment letter to the petitioner stating that he has complied with the terms of LOI. However, taking a total somersault, vide letter dated 23.11.2005 (Annexure P-16), the EO withdrew the LOI dated 22.03.2000 on the ground that the petitioner has failed to comply with the terms of the LOI and also failed to appear on 23.11.2004, when he was granted an opportunity of hearing.

6. The petitioner preferred an appeal against the abovesaid order dated 23.11.2005 (Annexure P-16) before respondent No.4-Administrator, who instead of deciding the appeal on merits, rather vide his letter dated 24.01.2006 (Annexure P-18) sought advice from the Chief Administrator, HUDA (Respondent No.3, herein) specifically stating therein that the order passed by the Estate Officer is apparently erroneous and bad in law. Since the petitioner did not get any decision on his appeal, thereupon he approached this Court vide CWP No.13129 of 2006, seeking directions against respondents. On being issued notice in the writ petition, respondent No.4 immediately passed an order dated 08.09.2006 (Annexure P-19) taking a totally contrary view, than what was stated in his letter dated 24.01.2006.



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7. Resultantly, the petitioner was constrained to amend his writ petition and challenge the order dated 24.01.2006 which was thereafter admitted and remained pending before this Court.

8. Since the main objection of the respondent-HUDA in its reply was availability of alternate remedy of revision against the order dated 24.01.2006 passed by respondent No.4-Administrator, therefore, the petitioner filed an application for withdrawal of the writ petition with liberty to pursue the alternate remedy and vide order dated 14.03.2016, this Court permitted the petitioner to withdraw the (supra) writ petition but after granting him the aforesaid liberty.

9. Accordingly, the petitioner filed revision before respondent No.1-State, under Section 17 of the Haryana Urban Development Authority Act, 1977 (hereinafter referred to as 'the Act of 1977'), whereons, the revision authority ordered for the remand of the *lis*, to respondent No.5-EO by directing him to hear the entire matter afresh and pass a speaking order after granting opportunity of hearing to the petitioner.

10. In pursuance of the above, the petitioner was heard and a speaking order dated 08.09.2017 (Annexure P-21) was passed, whereby, the claim of the petitioner was accepted by respondent No.5-EO, who after going through the entire record came to the conclusion that not only the petitioner was deliberately harassed by the officials of HUDA, but the entire action was motivated, smacked of mala fides and was based on extraneous reasons. Respondent No.5-EO, thus, recommended the restoration of LOI dated 22.03.2000 and in pursuance



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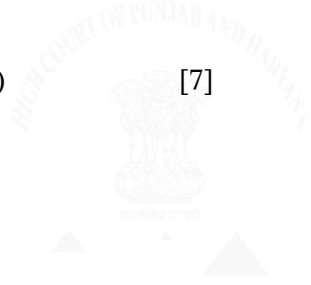
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thereof, he recommended for the issuance of a regular allotment letter. However, he observed that since the prices of the land have escalated, therefore, instead of charging the allotment price mentioned in the LOI, he recommended that the allotment be made on current allotment price of Rs.27,000/- per square meter. The total allotment price of the plot which was Rs.10 crore (approx.) as per the terms contained in the LOI dated 22.03.2000, was recommended to be increased to Rs.109 crore. Relevant paragraph whereof becomes extracted hereinafter.

“It can not be denied that, Dr. Bansal in his quest to contribute something for his motherland not only put his family life at stake but also youthful years just fighting for his Rightful claim which was a result of indecisiveness, procrastination, red-tapism and other disguised political considerations. The ordeal he had to go through as is clearly evident from the File, his Case hearings at the High Court and a patient hearing accorded to him on 7.07.2017 CANNOT be compensated by mere issuing a Regular Letter of Allotment. The passion and zeal which he still has for the project and the purity of intent and clarity of purpose makes the undersign believe that it is not mere land or building a hospital that Dr. Bansal is fighting for, but it is his “life’s calling” which he shall rest to lay with sincerity and piousness. A liberal concession indeed is required to advance substantial justice.

•That, based on the facts and observations so made above the undersigned believes that the matter required to be decided on merits and not mere notional technicalities or pre-emptive assumptions. Duly cognizant of the bona fide efforts so put by Dr. Anil Bansal and relying on the various rulings of the Hon’ble Apex Court contending that where a person’s ‘private rights or legitimate expectations’ are effected by the execution of the prerogative power, then that execution of power is amenable to review; I find Dr. Anil Bansal eligible for the



issuance of Regular letter of Allotment. The terms and condition originally at the time of inviting the applications shall apply subject to certain amendments if so proposed by the competent authority.

In so far as the issue of rate of allotment of the land is concerned, it cannot be denied that the rate of land in Sector 31-32 has increased manifold and while the original allotment was done @ 2074/- per sq. yard the reserve price of the same as on date stands @ 27000 per sq. meter. Thus, I recommend that the allotment of the land be done at the present market rate in which case no financial loss I foresee for HUDA. The amount of Rs.2,51,95,400/- already deposited by Dr. Anil Bansal along with 9% interest p.a. on the same shall be adjusted and reconciled while raising fresh demand hereafter to be paid in 4 annual installments as per the original terms and allotment.”

11. The petitioner challenged the same order (Annexure P-21) through his filing a revision petition under Section 30(2) of the Act of 1977 before the Revisional Authority.

12. A Committee headed by respondent No.3-Chief Administrator, on 14.01.2018, examined the recommendations made by respondent No.5-EO, and, vide abovementioned speaking order he accepted the same on merits. However, the allotment price was further increased to Rs.30,000/- per square meter on the basis of allotment price for the year 2018-2019 (Annexure P-23). The said minute(s) of meeting was sent to the Chairman, HUDA (Hon'ble the Chief Minister, Haryana) for approval.

13. The Revisional Authority concerned, dismissed the same being premature as the same is against an order passed by only an officer viz Estate Officer of the Pradhikaran/Authority and not the Pradhikaran. Relevant portion whereof becomes extracted hereinafter.



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“The jurisdiction under Section 30(2) begins only upon disposal of a case or upon an order passed by the Pradhikaran (the Authority as per Section 3 of the 1977 Act). Thus, the application under Section 30(2) as filed by the petitioner is premature as it is against an order passed by only an officer, viz. An Estate Officer of the Pradhikaran/Authority and not the Prdhikaran.

The present application, in view of the above, cannot be entertained at this stage and the legal jurisdiction of the Government as per section 30(2) starts only after an order of the Authority/Pradhikaran. Hence, the undersigned cannot interfere with the speaking order and the recommendation of the Estate Officer dated 08.09.2017 and the present application is liable to be returned and is returned herewith.

The above order be communicated to the parties concerned.”

14. In pursuance of the above, the petitioner has been issued the letter of allotment dated 08.03.2019 (Annexure P-25), wherein, the total allotment price for the plot has been fixed at approximately Rs.123 crore.

15. Now despite, the fact that all the authorities have agreed that the petitioner, did not default on any account rather had duly complied with the terms of the LOI dated 22.03.2000, besides when it also becomes detailed in Annexure P-21, that the order of withdrawal is motivated. Moreover, it has also been declared qua the order of withdrawal of the LOI, was activated by extraneous reasons and consideration besides was mala fide made, thus only aimed at harassing the petitioner. However, yet the demand of the current allotment price vis-a-vis the subject plot, but naturally amounts to punishing the petitioner, thus for the omissions and derelictions of the



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HUDA and its officials. Moreover, the said is antithetical to the (supra) speakings made in Annexure P-25 besides is diametrically opposed, to the self speaking explicit reasons as made in Annexure P-21, whereby the Authority concerned, was led to restore the plot to the present petitioner.

16. The effect of the above but naturally, is that, despite there being no omission on the part of the present petitioner, rather there being gross omissions rather on the part of the respondent concerned, thereupon the demandings of the current market value of the subject plot, from the present petitioner, thus through the making of Annexure P-25, but naturally and concomitantly, becomes ridden with a vice of non conformity, vis-a-vis the reasons stated in Annexure P-21. In other words, it is ex facie qua with the withdrawal of the LOI by the respondent, when self speakingly becomes articulated in the apposite order, to become prompted by extraneous reasons and considerations, besides becoming actuated by mala fides rather ultimately aimed at harassing the present petitioner. Therefore, the demand of the current allotment price from the petitioner, but naturally amounts to re-harassing and re-perpetuating trauma upon the present petitioner, despite the commissions of torts of malfeasance, non-feasance and misfeasance, on the part of the HUDA and its officials.

17. The petitioner approached this Court by way of the present writ petition, however the same was simply adjourned to 18.07.2019 and despite the respondent No.5-EO being aware of the said fact, yet he vide order dated 06.07.2019 cancelled the allotment made in favour of



the petitioner on the ground that the petitioner has failed to make the required payment in time. Hence, the present amended writ petition.

Inferences of this Court

18. The terms and conditions of the initial letter of allotment becomes extracted hereinafter.

“1. This is only a letter of intent and the regular allotment will be issued only after completing the pre-requisite i.e. arrangement of funds/loan from Bank and approval of Building Plants etc. within a period of 6 months from the date of issue of letter of intent. In case of failure to fulfill the pre-requisite the letter of intent shall be withdrawn and an amount equal to 10% of the total cost shall be forfeited.

2. The site shall not be used for the purpose other than the one for which the land is allotted. If you do not use the land for the specified purpose, it will revert to HUDA along with the structure, if any. Upto 10% of the total permissible coverage on the allotted site can be used for ancillary and allied activities including essential residential component.

3. The transfer of land shall not be allowed under any circumstance.

4. That Govt. policies and National Health Programme like family welfare, Immunisation, NMEP etc. shall be implemented as policy of guidelines.

5. The allottee shall complete construction of atleast 25% of the projected built up area as indicated in the project report and start the facility of hospital within 2 years from the date of offer of possession. The project shall be completed in all respects in five years.

6. One representative each from health department, HUDA, and District Administration shall be taken in the Committee/Board, Managing the affairs/functioning of the hospital.

7. Shops shall not be allowed to be constructed except these specifically provided in the zoning plan.

8. The control over building shall be exercised through a zoning



plan of the site which shall provide for the building zone, maximum ground coverage, maximum height, FAR, parking area, type of boundary wall and gate etc. besides specifying the use of plot. Besides the zoning plan, the BIS Norms/ guidelines regarding basic requirement for Hospitals shall be applicable.

9. That the allotment shall be further governed by the provisions of HUDA Act 1977, rules and regulations framed thereunder.

10. The general hospitals, health centre and dispensary shall provided 10% bed free and 20% OPD free to the weaker section of the Society.

11. The above price is tentative to the extent that any enhancement in the cost of land awarded by the competent authority under the land acquisition Act shall also be payable proportionately as determined by the authority within 30 days of its demand.

In the Super-specialty Hospitals, subsidized rats @ 30% of the normal charges for 20% of functional beds shall be charged in addition to 20% OPD free for the weaker section of the society.

The allotment shall also be subject to the provisions of HUDA Act 1977 and Regulations framed thereunder.”

19. Though well made deterrences, became encumbered upon the present petitioner, against his not obtaining the relevant sanction vis-a-vis the building plans. The said become candidly projected in the order dated 08.09.2017 (Annexure P-21) passed by the Estate Officer-respondent No.5. Moreover, though the said made well deterrences when also do become supported by evidence in support thereto existing on record. However, ultimately yet the said well made deterrences, thus also supported by cogent material, rather inaptly become completely discarded.

20. The effect of the above, is that, the price of the subject plot was not required to be enhanced, but was required to be maintained at



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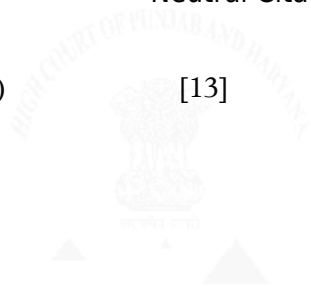
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the scale when the initial allotment was made. Since, through the passing of the impugned order (Annexure P-21), the said has not occurred, rather the price of the subject plot has been untenably enhanced at the prevalent rate, thereby gross injustice has been encumbered upon the present petitioner.

21. Moreover, though there is a provision in the allotment letter, that the sanction plan is to be obtained by the allottee, besides for want thereof there may be an alteration in the allotment charges. However reiteratedly when the petitioner is not responsible for the delays in the granting of sanctions rather on account of the pendency of litigation thus throughout the relevant period. As such, when there is no breach made to the said condition nor when the petitioner is responsible for the delay in the granting(s) of sanctions. Resultantly, the reasons for stating so, as become also mentioned in the impugned order dated 08.09.2017 (Annexure P-21), do acquire immense legal work. The said reasons become hereinafter extracted:-

- i) The zoning plan was not issued until 18.3.2002 by the department and not communicated to the petitioner before 25.9.2002. Thus, the delay of near about 2 years and 6 months from the date of issuance of LOI can be attributed to HUDA alone.
- ii) The letter dated 25.09.2002 did communicate to the petitioner about the approved zoning, but gave only 14 days window to get the building plan approved which was too short a time seemingly arbitrary sans any logical rationing.



iii) Surprising enough that the petitioner who was found professionally competent and financially sound to undertake a project of this magnitude by a joint committee headed by the Chief Administrator HUDA, was financially re-evaluated and assessed by the lower staff locally and left to red tapism to snowball the rest.

vi) It is quite intriguing that the Administrator HUDA, who had sent a proposal dated 24.01.2006 admitting that the petitioner has fulfilled the conditions of LOI and contending that other Estate Officers and Administrator HUDA did not go through the facts of the case; himself decided the matter against the petitioner on 08.09.2006 rejecting the case on the same grounds as was done by his predecessors.

22. Reiteratedly, the said reasons are worthy and legally sound, consequently, the instant petition is allowed. The cancellation order dated 06.07.2019 (Annexure P-30) and letter of allotment dated 08.03.2019 are quashed and set aside. The speaking order dated 08.09.2017 (Annexure P-21) is partly quashed to the extent, that the allotment of the plot, as has been made at the rate of Rs.27000/- per sq. meter, is quashed and set aside, and, this Court restores Annexure P-21, but with a rider that the market price, as was existing at the time when the initial allotment letter dated 22.03.2000 (Annexure P-2) was made, be charged from the petitioner. Now for the prima facie commissions of torts of malfeasance, non-feasance and misfeasance, thus on the part of the HUDA and its officials, besides for the repeated trauma and harassment becoming wreaked upon the petitioner, thereupon, as such,



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the instant writ petition, is also allowed, with exemplary compensation comprised in a sum of Rs.5 lacs becoming encumbered upon the respondent concerned. The same shall be forthwith released to the present petitioner.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

03.04.2025
ANJAL/ITHLESH

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No