

Present: Mr. Amar Vivek Advocate Vs. Haryana Urban Development Authority

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Court : Punjab and Haryana

Decided On : Sep-26-2013

Appellant : Present: Mr. Amar Vivek Advocate

Respondent : Haryana Urban Development Authority

Judgement :

C.W.P.No.9589 of 1995 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH ***** C.W.P.No.9589 of 1995 Date of Decision: 26.09.2013
Gulab Chand JainPetitioner Versus Haryana Urban Development Authority
....Respondent CORAM: HONBLE Mr.JUSTICE SATISH KUMAR MITTAL
HONBLE Mr.JUSTICE MAHAVIR S.

CHAUHAN Present: Mr.Amar Vivek, Advocate, for the petitioner.

Mr.Siddharth Batra, Advocate, for the respondent.

MAHAVIR S.

CHAUHAN, J.

Petitioner, vide his application dated 13.10.1988 (Annexure P-1).applied for allotment of a two-kanal industrial plot in Urban Estate, Panchkula, by appending

therewith a detailed report, in duplicate, and a bank draft for Rs.10,400/- being 10% of the premium fixed for the plot, for setting up an industry to manufacture packing cases.

Case of the petitioner was examined by Second Line Committee and the petitioner was also interviewed to illustrate relevant information pertaining to the know how as well as steps taken by him for the purpose.

The plots were to be allotted on the basis of 'FiRs.Come FiRs.Served' and, as such, case of the petitioner was entered at Serial No.4 in the register maintained in the office of the respondent.

As aforesaid, petitioner had applied for and his case was considered for setting up of an industry for Virender Singh Adhikari 2013.10.09 11:04 I attest to the accuracy and integrity of this document High Court Chandigarh C.W.P.No.9589 of 1995 -2- Wooden Packing Cases but the petitioner in his wisdom realized that the project submitted by him was not profitable and accordingly, vide his application dated 26.04.1989 (Annexure P-4).he changed the project from Wooden Packing Cases to Metal Clad Main Switches and Electrical Control Panels etc.Request of the petitioner was registered at Serial No.109 in the register maintained in the office of the respondent.

So as to ensure its consideration in accordance with the principle of 'FiRs.Come FiRs.Served', petitioner immediately submitted an altered project report.

Vide memorandum dated 11.05.1989 (Annexure P-7).project of the petitioner for manufacture of Metal Clad Main Switches and Electrical Control Panels etc.was also recommended provisionally for allotment of industrial plot and it was also requested that the principle of 'FiRs.Come FiRs.Served' be strictly adhered to for the purpose of seniority and in continuation of letter (Annexure P-7).the Director of Industries, Haryana, vide memorandum dated 22.05.1989 (Annexure R-1) conveyed to the respondent that case of the petitioner with regard to project relating to Wooden Packing Cases was rejected but recommended the one relating to Metal Clad Main Switches and Electrical Control Panels etc.As second application of the petitioner was entered at Serial No.109, he, vide his

representation dated 20.06.1989 (Annexure P-8) addressed to the Chief Administrator, Haryana Urban Development Authority, Chandigarh, and letter dated 21.06.1990 (Annexure P-9) addressed to the Commissioner, Department of Industries, Government of Haryana, requested that his earlier seniority, i.e., Serial No.4, be maintained and his case be Virender Singh Adhikari 2013.10.09 11:04 I attest to the accuracy and integrity of this document High Court Chandigarh C.W.P.No.9589 of 1995 -3- considered for allotment of an industrial plot in view of that seniority.

When nothing was heard in response to the afore-stated representations, the petitioner submitted a few more representations/reminders but to no avail and in the situation, he brought the instant writ petition under Articles 226/227 of the Constitution of India with a prayer that respondent be directed to allot him a two-kanal industrial plot in Urban Estate, Panchkula, as per recommendations of the Director of Industries, Haryana, contained in his letter dated 11.05.1989 (Annexure P-7) by treating the petitioner amongst fiRs.five applicants.

A written statement has been filed on behalf of the respondent, wherein it has been admitted that originally the petitioner had submitted a project report for Wooden Packing Cases and the application was registered at Serial No.4 in the register maintained in the office of the respondent for allotment of a two-kanal industrial plot in Phase-II, Panchkula, based on the principle of 'FiRs.Come FiRs.Served' but the petitioner, having sensed that the project report submitted by him for manufacturing packing cases was likely to be rejected, made an application dated 26.04.1989 (Annexure P-4) for changing the project from Wooden Packing Cases to Metal Clad Main Switches and Electrical Control Panels etc., which was found to be viable and the case of the petitioner was recommended by the Director of Industries, Haryana, for allotment of industrial plot for the said project.

According to the respondent, the application dated 26.04.1989 (Annexure P-4) was registered at Serial No.109 in the register maintained in their office, it being a fresh application in view of rejection of the earlier project submitted by the petitioner as conveyed Virender Singh Adhikari 2013.10.09 11:04 I attest to the

accuracy and integrity of this document High Court Chandigarh C.W.P.No.9589 of 1995 -4- vide memorandum dated 22.05.1989 (Annexure R-1).We have heard learned counsel for the parties and have also examined the record.

Though, it is argued on behalf of the petitioner that the application dated 26.04.1989 (Annexure P-4) was in continuation of his original application dated 13.10.1988 (Annexure P-1).as such, his seniority fixed at Serial No.4 in the register maintained in the office of the respondent could not be altered to his detriment in view of the fact that vide application dated 26.04.1989 (Annexure P-4).the petitioner had only altered the project report as the earlier project report submitted by him was found to be not viable, but the circumstances appearing on record indicate that the project report relating to manufacture of Wooden Packing Cases was rejected by the Director of Industries, Haryana, and as evidenced by memorandum dated 22.05.1989 (Annexure R-1) and the petitioner having come to know of the impending rejection of his project report submitted another application, dated 26.04.1989 (Annexure P-4).to change the project by introducing a new project for manufacture of Metal Clad Main Switches and Electrical Control Panels etc.The application submitting a new project cannot be deemed to be an application in continuation of earlier application dated 13.10.1988 (Annexure P-1).which was submitted by the petitioner for allotment of a plot for establishing an industry for manufacture of Wooden Packing Cases.

It is needless to state that the earlier project report submitted by the petitioner was considered by the Second Line Committee along with other applications for Virender Singh Adhikari 2013.10.09 11:04 I attest to the accuracy and integrity of this document High Court Chandigarh C.W.P.No.9589 of 1995 -5- allotment of similar plots on the basis of principle of 'FiRs.Come FiRs.Served' and by changing the project report, the petitioner has pulled, himself, out of the consideration zone in respect of applications received in the office of the respondent along with petitioner's application 13.10.1988 (Annexure P-1) and introduction of a new project necessitated consideration of the case of the petitioner afresh by the Second Line Committee and by that time the applications of other applicants must have reached at advanced stages meant for allotment of requisite plots pursuant to those applications.

The petitioner cannot derive any benefit from an assertion in memorandum dated 11.05.1989 (Annexure P-7) requesting adherence to the principle of 'FiRs.Come FiRs.Served' for the simple reason that by reiterating this principle, Director of Industries, Haryana, cannot mean to have recommended breaking of the queue to accommodate the petitioner at a place which he lost after making a fresh application with a fresh project report.

Rather, in our considered opinion, if the prayer of the petitioner is accepted and his application is ordered to be considered at Serial No.4 in the seniority list, it would result into violation of the principles enshrined in Article 14 of the Constitution of India because in that situation, it would amount to treating an unequal as equal.

In the consequence, the writ petition fails and is, therefore, dismissed.

(SATISH KUMAR MITTAL) (MAHAVIR S.

CHAUHAN) JUDGE JUDGE2609.2013 adhikari Virender Singh Adhikari
2013.10.09 11:04 I attest to the accuracy and integrity of this document High Court
Chandigarh

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