

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 5292 OF 2004

FULJIT KAUR

Appellant (s)

VERSUS

STATE OF PUNJAB & ORS.

Respondent(s)

Date: 20/05/2010

This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE SWATANTER KUMAR
(VACATION BENCH)

For Appellant(s)

Mr. Vijay Hansaria, Sr.Adv.
Mr. Sanjay Sarin, Adv.
Mr. Abhinav Ramkrishna, Adv.
Ms. Gagandeep Kaur, Adv.
Mr. Ashok Mathur, Adv.

For Respondent(s)

Mrs.Rachana Joshi Issar, Adv.
Mr. Shailendra Kumar, Adv.
Ms. Nidhi Tewari, Adv.

UPON hearing counsel the Court made the following
O R D E R

It is a strange case where the allotment of the land for the residential purposes had been made to the appellant within 48 hours of submission of the application as per the letter of allotment issued in her favour. However, Mr. Vijay Hansaria, learned senior counsel appearing for the appellant has argued that some allotments were made in large number of other cases as well. Prima facie, this appears to be an arbitrary action

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inasmuch as it is a matter of common knowledge that even to make allotments by developing authorities or the Government departments one and a half years to two years period is taken. In these circumstances, we direct the State of Punjab as well as the concerned authorities to furnish list of allottees who have been allotted plots in similar areas like the appellant. The policy, if any,

shall be annexed to the affidavit to be filed in terms of this order.

In the case of D.S. Longia versus State of Punjab, the High Court has decided the matter in favour of the allottee. The authority approached this Court. But while entertaining the Special Leave Petition, this Court had made observations which are not usually made in most of the cases, that the High Court's judgment was not justified and required consideration by this Court. However, for the reasons best known to the Authority, an application for withdrawal of the Special Leave Petition was filed and this Court permitted the authority to withdraw the Special Leave Petition.

Subsequent thereto, the authority had taken a decision to charge final price which was obviously higher to the provisional/tentative price charged under the letters of allotment. The calculation thereof has been placed on the record (at page 100 of the paper book).

Firstly, affidavit in this Court was filed on 11th August, 2004 and thereafter, another affidavit was filed as

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supplementary affidavit indicating the charges payable.

It is alleged that despite such decisions concessions have been given to D.S. Longia, even in this regard.

Though, there is nothing on record to show whether the cost enhanced indicated above has been recovered from all persons and if not what are the reasons thereof. Details

of such similarly situated persons also need to be placed on record.

Undoubtedly, Article 14 of the Constitution does not envisage negative equality but it seems to be a case of much more than mere allotment because these allotments were made in the discretionary quota. Though there is no specific challenge before us to the allotments made under discretionary quota but still question which necessarily

needs to be examined by the Court is whether the State and/or its instrumentalities have a right to distribute State charges in an arbitrary manner without there being any guidelines or criteria.

The allotments made on throw-away prices and in an arbitrary manner can hardly be justified.

Therefore, we direct the officer in-charge, not below the rank of the Chief Administrator of the authority, to file an affidavit, sworn by him, before the next date of hearing explaining all the circumstances and the reasons whether the enhanced amount as shown in the affidavit dated 11th August, 2004 had been recovered or not. If not, the Chief Administrator of the authority is

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directed to furnish an explanation that if the authority had no courage to enforce the order for making recovery of the amount then what was the reason for making such an order.

The Chief Administrator is also directed to furnish the criteria for making the allotment in discretionary quota at initial stage.

List this matter on 28th May, 2010.

The affidavit shall be filed before 28th May, 2010.

(Sukhbir Paul Kaur)
Court Master

(Indu Satija)
Court Master