

Charanjit Bajaj and others v. The State of Haryana and others  
(H. S. Bedi, J.)

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the same effect was sent to him on February 19, 1991. The petitioner refused to accept this letter, though, on the same day he did submit letter Annexure R-7 to the Chairman. It is pertinent to note that it contains no reference to the query made from him regarding his having been taken up employment. Such conduct on the part of the petitioner denotes scant regard for truthfulness and straight-forwardness.

(14) While dealing with this matter, reference may also be made to the admission from where one of the terms of the undertaking given by the petitioner was to the effect that during the course he would not join any service or pursue any other course of studies. Breach of this undertaking too is also writ large.

(15) No occasion is thus provided here for granting to petitioner the relief claimed. This writ petition is accordingly hereby dismissed and, having regard to the conduct of the petitioner as revealed, we also impose Rs. 500 as costs upon him.

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R.N.R.

Before : G. C. Mital, A.C.J. & H. S. Bedi, J.

CHARANJIT BAJAJ AND OTHERS,—Petitioners.

versus

THE STATE OF HARYANA AND OTHERS,—Respondents.

Civil Writ Petition No. 1270 of 1985.

10th April, 1991.

*Haryana Urban Development Authority Act—Acquired land utilized for commercial and residential purposes—Enhancement of compensation—Liability of allottees to pay enhanced price—Commercial plots fetching sufficient amount to take burden of enhancement—Effect of—Whether residential plot-holders absolved of their liability to pay enhanced price.*

Held, that the argument that the plots were sold to the petitioners on a no profit no loss basis, it will be just and fair that the burden of the enhanced compensation should be taken care of by

the sale of commercial property which has, in fact, been sold at very high rates, cannot be accepted. Taken to its logical conclusion then if the sale of commercial property brought in enough funds to take care of the entire compensation to be paid to the landowners, then no price for the plots ought to have been charged from the petitioners. It is also to be borne in mind that as a consequence of the development of the commercial area the residential plot-holders also share in the resultant price escalation.

(Paras 3 & 5)

*Petition under Articles 226/227 of the Constitution of India praying that :—*

- (a) *the records of the case be called from the respondents;*
- (b) *a writ of certiorari or any other appropriate writ, direction or order quashing order Annexure P 7 be issued;*
- (c) *any other relief to which the petitioners are entitled in law and equity may be granted;*
- (d) *exemption may be granted from filing certified copies of Annexures P 1 to P 7;*
- (e) *costs of the writ petition may kindly be awarded in favour of the petitioners and against the respondents;*

*It is further prayed that pending the final decision of this writ petition, recovery of the enhanced amount,—vide Annexure P7 may kindly be stayed.*

*M. L. Sarin, Senior Advocate with Hemant Sarin, Mrs. Alka Sarin and R. S. Cheema, Advocates, for the Petitioner.*

*S. C. Mohanta, A.G. Hy. with Ashutosh Mohanta, Advocate and Jaivir Yadav, D.A.G. Haryana, for the Respondents.*

#### JUDGMENT

*Harjit Singh Bedi, J.*

(1) By this judgment, Civil Writ Petitions Nos. 1283 of 1985, 13299, 14678, 6549, 8555, 7229, 13689, 14665, 11471, 14662, 8484, 16866, 13345, 12081 and 10883 of 1990 are being disposed of. The facts have been taken from C.W.P. No. 1270 of 1985.

(2) The present writ petitions have a chequered history. The petitioners filed the writ petitions challenging the legality of notice, Annexure P-7 to the writ petition, *inter alia*, on the ground that no enhancement could be made in the price of the plots. *Vide* this

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Court's D.B. Judgment dated 8th July, 1986, it was held that the petitioners were bound to pay the enhanced price of the plots which had been claimed from them, but the respondents were not entitled to charge any interest from the petitioner-plot holders for the period intervening between the deposit of compensation and the issue of notice, Annexure P-7. Aggrieved by the order of the Division Bench, the petitioners, along with some others, approached the Supreme Court by way of Special Leave Petitions. The Hon'ble Supreme Court in its order dated 5th February, 1990, observed as under :—

“We have heard Mr. Rao in support of the special leave petitions. His main grievance is that the stand taken before the High Court by the petitioners has not been properly analysed and appreciated. The contention of the petitioners was that the property had been acquired for two purposes, namely, commercial and residential. Out of 10.22 acres only about 2.80 acres was likely to yield 2.8 crores and that amount was sufficient to take the burden of the enhanced compensation for the entire land granted by the Court on reference under section 18 of the Land Acquisition Act. Therefore, the residential allottees should not have been made to bear brunt of escalation. This aspect does not seem to have been dealt with by High Court. It is open to the petitioners, if they are so advised, to ask the review before the High Court. In case the review petition is filed, limitation for the same may be taken to commence from the date of this order. With these observations, the special leave petitions are disposed of.”

Sd/- Ranganath Misra, J.

Sd/- R. Ramaswamy, J.

In pursuance of the order quoted above, a review application was filed and,—vide orders dated 7th February, 1990, the same was allowed and the earlier order dated 8th July, 1986, recalled with a further direction to rehear the writ petitions for considering the point which was raised before the Supreme Court and not dealt with by this Court in its earlier judgment.

(3) After hearing the counsel for the parties, we adopt and reiterate the judgment of the Division Bench decided on 8th July, 1986, on the points decided therein. Mr. M. L. Sarin, learned Senior

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Advocate, appearing for the petitioners has additionally contended that as the plots were sold to the petitioners on a no profit no loss basis, it was just and fair that the burden of the enhanced compensation should be taken care of by the sale of commercial property which has, in fact, been sold at very high rates.

(4) In reply, Mr. S. C. Mohanta, learned Advocate-General Haryana, has urged that if this argument is accepted it would virtually restrict all developmental activity. He has also urged that as the developmental activities go on over a long period and improvements are made on a continuing basis, it would not be possible to co-relate the commercial property to the residential plots and to draw up a balance-sheet determining the surplus amount available from the sale of commercial property which could be utilised for paying the enhanced compensation for the land given for residential plots. He has further urged that clause (4) of the allotment letter, Annexure P-2, issued to the petitioners, specifically provides for the enhancement of the price of the plot in case of enhancement of compensation for acquisition of the land of this sector by the court or otherwise.

(5) After hearing the learned counsel for the parties, we are of the view that these petitions, even on the additional points raised, cannot succeed *in toto*. If, Mr. Sarin's argument could be taken to its logical conclusion, than if the sale of commercial property brought in enough funds to take care of the entire compensation to be paid to the landowners, no price for the plots ought to have been charged from the petitioners. It is also to be borne in mind that as a consequence of the development of the commercial area the residential plot holders also share in the resultant price escalation. We also agree with Mr. Mohanta that it would be impossible to draw up a balance-sheet with mathematical exactness so as to determine the surplus amount of funds available for being utilised to pay for the enhanced compensation of the residential plots.

(6) An additional argument has been raised by Mr. Sarin in C.W.P. No. 16866 of 1989 that the respondents have discriminated against the petitioners and certain other organisations with regard to the burden of sharing of the enhanced compensation and in the case of others, only 55 per cent of the area has been taken into account for getting the balance enhanced amount. This argument is also without force. The residential plot holders have been given fully developed plots with all amenities like approach roads etc.,

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whereas, the organisations aforementioned have been given large areas wherein certain area would be left out for the purpose of roads and other civic amenities. We are, therefore, of the view that the judgment of the Division Bench dated 8th July, 1986, is sound in all respects and no interference is called for. The present writ petitions are, therefore, allowed in the terms of the judgment of the Division Bench dated 8th July, 1986. We order accordingly.

S.C.K.

(FULL BENCH)

Before : G. C. Mital A.C.J., A. P. Chowdhri & H. S. Bedi, JJ.

C. SARBJIT SINGH AND OTHERS,—Petitioners.

*versus*

STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 14438 of 1990.

19th July, 1991.

*Punjab Police Rules, 1934—Rls. 13.1, 13.7, 13.8, 13.9 & 13.10—Selection of candidates for deputing to lower school course—Reservation for Scheduled Caste and Backward classes—Preparation of list B-1—Whether a step in the process of promotion of constable to Head Constable—Reservation not made at this stage—Would render reservation redundant.*

Held, that rule 13.7 is substantially different in its applicability and essence from rules 13.9 and 13.10. It is to be borne in mind that as per the practice in the Department, no *inter se* seniority of Constables is maintained and all Constables who qualify in terms of the rule and the Standing Order are entitled to be put on List 'B' for being sent to the Lower School Course. It is after passing the Lower School Course that a seniority list of Constables is framed under rule 13.8, and are put in List 'C' where in addition to other factors, the merit obtained in the course is to be kept in view. It is, therefore, apparent that the prescription of test at the stage of the preparation of List 'B' in terms of Rule 13.7 is essentially a step in the process of promotion of Constables to Head Constables. That being the situation, it would be mandatory on the authorities to make the reservation as provided by Annexure R-1 at the stage of selecting candidates for being put on List 'B'.

(Para 8)