

**PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.**

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CWP No. 3199 of 2008.

Date of decision: January 21, 2009.

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Handicapped Welfare Group Housing Society Ltd. Panchkula.

Versus

The State of Haryana and others.

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**CORAM: HON'BLE MR. JUSTICE T.S.THAKUR, CJ AND  
HON'BLE MR. JUSTICE HEMANT GUPTA.**

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present: Ms.Veena Kumari, Advocate, for the petitioner.

Shri Rameshwar Malik, Addl: A.G.Haryana.

Shri R.S.Longia, Advocate, for  
Shri Arun Walia, Advocate.

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T.S.Thakur, CJ (Oral)

Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 casts an obligation upon the appropriate Governments and local authorities to frame schemes in favour of persons with disabilities for preferential allotment of lands on concessional rates for the purpose enumerated in the said provision. The provision reads as under:-

*“43. Schemes for preferential allotment of land for certain purposes.- The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates for-*

- (a) house;*
- (b) setting up business;*
- (c) setting up of special recreation centres;*
- (d) establishment of special schools;*
- (e) establishment of research centres;*
- and*
- (f) establishment of factories by entrepreneurs with disabilities.*

The petitioners' grievance in the present writ petition filed in public interest is that despite a clear mandate contained in Section 43 (Supra), the government of Haryana have not framed any scheme nor has the Haryana Urban Development Authority formulated and notified any scheme in relation to any of the matters enumerated under Section 43 of the Act. A mandamus directing the respondents and the Haryana Urban Development Authority to verify and formulate a scheme providing for preferential allotment of land at concessional rates for the purposes enumerated under Section 43, has therefore been prayed for.

In response to a notice issued by this Court, The Chief Town Planner, Haryana Urban Development Authority has filed a reply in which it is inter alia stated that the Haryana Urban Development Authority has satisfied the requirements of Section 43 of the Act in terms of instructions issued on February 12, 2008 and produced as Annexure R2/1. A reading of the said instructions, however, shows that the same does not fully satisfy the requirements of Section 43 of the Act inasmuch as while there is a reservation provided for allotment of industrial and residential plots, there is no mention about any preferential or concessional allotment for setting up of business, special recreation centres, establishment of special schools, establishment of research centres and establishment of factories by entrepreneurs with disabilities. It is also evident that the conditions of eligibility etc. which would form an essential part of the scheme and the terms on which such allotments can be made have also not been satisfactorily enumerated.

In so far as the State Government is concerned, Mr. Malik had on January 19, 2009 taken time to verify whether the Government of Haryana has formulated any scheme in terms of Section 43 of the Act. He today submits on the basis of relevant record produced before us for perusal that the matter is still under the active consideration of the State

Government. A perusal of the record shown to us however shows that although the failure on the part of the State Government to formulate an appropriate scheme was brought to the notice of the Apex Court in Writ Petition (Civil) 576 of 2004 Salil Chaturvedi Versus Union of India and others, the State Government have not moved in the matter except issuing a direction to the Chief Secretary as early as in May 2007 to look into the matter and formulate a scheme. Mr. Malik submits that the Government is still in the process of considering the matter and formulating an appropriate scheme. We are not satisfied with that explanation. Since, the matter had already been brought up to the notice of the Apex Court, the State Government was fully aware of the obligation under Section 43 of the Act and ought to have taken steps to formulate an appropriate scheme. Be that as it may, we see no reason why the active consideration of the State Government should not culminate in a proper scheme as early as possible. Mr. Malik at this stage prays for and is granted three months time for the state to formulate an appropriate scheme under Section 43 of the Act and to notify the same. Haryana Urban Development Authority shall also within the same time frame notify a proper scheme providing for all the matters enumerated in Section 43 of the Act.

This petition is with the above observations disposed of. No costs.

**(T.S.Thakur)**  
**Chief Justice**

**(Hemant Gupta)**  
**Judge**

**January 21, 2009**  
**Malik**