

CWP-6793-2002

Date of Decision : 10.02.2015

Gurmit Singh

..... Petitioner

Versus

Sub Divisional Magistrate, Chandigarh and another

..... Respondents

CORAM HON'BLE MR. JUSTICE K.KANNAN

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the digest?**

Present: Mr. Raman Sharma, Advocate
for the petitioner.

None for the respondents.

K.Kannan, J (Oral)

The writ petition is brought for consideration after direction was issued by the Supreme Court for fresh consideration regarding the domicilliary status of the petitioner to be considered for allotment of a flat in Chandigarh by the Chandigarh Administration. In the previous round of the litigation, the petitioner had sought to prove his eligibility status for allotment that required the domicile of the applicant to be at Chandigarh or a bona fide resident at Chandigarh. The Supreme Court held that the specification regarding domicile was to be understood in its loose sense and not in the manner that is understood in private international law. The Supreme Court directed the consideration to be undertaken by the District Magistrate after giving opportunity to the petitioner to afford appropriate evidence regarding his domicile.

The order was passed rejecting the petitioner's status and it is the order of the Sub Divisional Magistrate passed on 25.02.2002 that is a subject of challenge before this Court.

The petitioner produced proof of the facts that he had been residing in Chandigarh from the year 1993 and even after the death of his father in the year 1991 he continue to reside here with an intention to remain permanently and independently. He relied on the fact that he had obtained an industrial plot No.182/14 at the Industrial Area Chandigarh and he was carrying on his business. The District Magistrate found that he had been born in Delhi, studied upto 12 Class there and had gone to USA in the year 1983 and returned in the year 1986. There was nothing to show that the petitioner's wife and children were also residing at Chandigarh and there was also no proof whether his children studied in any School at Chandigarh. He found that the petitioner's assertion that he was a bona fide and permanent resident of Chandigarh was not established and hence held he did not have the domicile of Chandigarh.

The counsel for the petitioner would argue that he had the voter card at Chandigarh and he had also a ration card issued at the place of his residence at Chandigarh. He was working only in Chandigarh and he had the intention to continue to reside, with proof of residence, his status could not have been decided by making reference to non-availability of documents regarding the residential status of the petitioner's wife and children. I accede to the contention of the petitioner and set aside the order of the SDM, Chandgiarh, more particularly, in view of the fact that even when a challenge is brought to

its decision, there is no support to the order by any one representing the Administration.

The impugned order is set aside and the cancellation of allotment made already is consequently quashed. The allotment initially made will stand restored and all further official acts that are required to be done to make the petitioner's title to perfect shall be carried out within 8 weeks from the date of the receipt of the order.

The writ petition is allowed in the above said terms.

(K. KANNAN)
JUDGE

February 10, 2015
ps-l