

In the High Court of Punjab and Haryana at Chandigarh

CWP No.10156 of 2014
Date of Decision:9.4.2015

Anita

---Petitioner

versus

The Chandigarh Housing Board and others

---Respondents

Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Mahavir Sandhu, Advocate
for the petitioner

Mr. Indresh Goel, Advocate
for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

REKHA MITTAL, J.

The petitioner has preferred the petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to include her name in the list of eligible candidates for allotment of one room flat under Dr. Ambedkar Awas Yojna-2009 (for brevity “the Scheme”).

2. The Chandigarh Administration formulated the scheme for allotment of houses to Scheduled Castes vide notification dated 28.7.2009

(Annexure P-1). The petitioner submitted application (Annexure P-12) and came out to be successful in draw of lots held on 10.7.2014 and her name appeared at Serial No. 279 (Annexure P-11). Prior to draw of lots, the Accounts Officer(C), Chandigarh Housing Board, Chandigarh (in short “CHB”), vide letter dated 24.4.2010 (Annexure P-3) called upon the petitioner to rectify the defects/deficiencies in her application and one of the discrepancy pointed out is non-filing of Scheduled Caste certificate issued by the Chandigarh Administration. The petitioner, vide letter dated 2.6.2010 (Annexure P-4) submitted the Schedule Caste certificate issued by the Sub Divisional Magistrate (East), U.T.Chandigarh dated 1.6.2010 (Annexure P-5). Later, name of the petitioner was not entered in the list of eligible candidates and rather was shown in the list of ineligible candidates. The petitioner submitted representation dated 26.2.2014 (Annexure P-7) for consideration of her claim but to no result.

3. Counsel for the petitioner Sh. Mahavir Sandhu, Advocate argues that in the prescribed performa for filing application for allotment, it is none of the requirements to append certificate of Scheduled Caste along with the application. It is further argued that as soon as the petitioner received letter dated 24.4.2010, she submitted her response promptly and removed the defects/deficiencies pointed out therein. The mother of the petitioner namely Angoori Devi belongs to Balmiki caste and a certificate to this effect was issued in her favour on 22.1.2010 (Annexure P-9). In the school leaving certificate issued by Government Primary School Barla, Mujjafar Nagar (Annexure P-9), the petitioner has been recorded to be a member of Balmiki caste. The last submission made by counsel is that as

the certificate issued in favour of the petitioner only verifies an existing fact that the petitioner belongs to a Scheduled Caste (Balmiki caste), action of the respondents in excluding her name from the list of eligible candidates is illegal and the petitioner is entitled to be considered for allotment of one room flat as she belongs to Scheduled Caste.

4. Counsel for the respondents, on the contrary, would submit that the petitioner did not submit any document with the application to substantiate her claim that she belongs to a Scheduled Caste. The certificate submitted by her in response to letter dated 24.4.2010 was issued after closing date i.e. 16.9.2009 stipulated for submission of applications. It is argued that as the petitioner did not possess a Scheduled Caste certificate issued by a competent authority as on the date of filing of application i.e. 16.9.2009, her claim for allotment of a flat has rightly been rejected.

5. We have heard counsel for the parties and perused the records.

6. The precise question that falls for determination is whether action of the authorities in excluding name of the petitioner from the list of eligible candidates is valid and legal?

7. Concededly; the petitioner submitted application (Annexure P-12) in response to the scheme floated by the Chandigarh Administration for allotment of one room flat in Sectors 56, 38(West) and 49 for members of the Scheduled Castes. It is not disputed that in the prescribed performa for submission of application, it is none of the requirements to append a Scheduled Caste certificate alongwith the application. Later, respondents vide letter dated 24.4.2010 (Annexure P-3) required the petitioner to rectify

certain defects/deficiencies in her application and admittedly she satisfied those requirements and submitted Scheduled Caste certificate dated 1.6.2010 issued by the Sub Divisional Magistrate(East), U.T.Chandigarh (Annexure P-5) whereby the authority concerned certified that she belongs to Balmiki Caste, recognized as a Scheduled Caste under the Constitution (Scheduled Caste) Order 1950.

8. As has been noticed hereinbefore, it was not required to append the Scheduled Caste certificate with the application for allotment of a flat. The petitioner submitted the Scheduled Caste certificate issued by the Sub Divisional Magistrate (East), U.T.Chandigarh at a point of time later than the closing date of the scheme i.e. 16.9.2009. What is a certificate? As per Black's Law Dictionary (Ninth Edition), "certificate is a document in which a fact is formally attested or a document certifying the bearer's status or authorization to act in a specify way". The certificate is a proof of fact asserted by the petitioner that she belongs to a Scheduled Caste. It is not the certificate that has made the petitioner eligible to get benefit of the scheme. Rather the petitioner became entitle to the aforesaid benefit in view of her status that she belongs to a Scheduled Caste. In this view of the matter, in our considered opinion, in the facts and circumstances merely because the Scheduled Caste certificate was issued on a date subsequent to the closing date of the scheme would not render the petitioner ineligible more particularly that it was none of the requirements of the application that the said certificate was to be submitted along with the application. As a consequence, action of the respondents in excluding name of the petitioner from the list of eligible candidates cannot be allowed to sustain and thus

liable to be set aside.

9. For the reasons aforesaid, the petition is allowed and the respondents are directed to consider case of the petitioner for allotment of one room flat being one of the members of the Scheduled Caste and successful in the draw of lots held on 10.7.2014 and take further action in accordance with law. No order as to costs.

(Rekha Mittal)
Judge

(Ajay Kumar Mittal)
Judge

9.4.2015
PARAMJIT

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No. 4108 of 2015 in CWP No. 10156 of 2014

Anita vs. The Chandigarh Housing Board and others

Present: Mr. Mahavir Sandhu, Advocate
for the petitioner

Mr. Indresh Goel, Advocate
for the respondents

Replication on behalf of the petitioner filed alongwith the
application is taken on record subject to all just exceptions.

Officer to tag the same at appropriate place.

C.M.stands disposed of.

(Ajay Kumar Mittal)
Judge

(Rekha Mittal)
Judge

09.4.2015

PARAMJIT