

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.16261 of 2012

Date of decision:10.2.2015

Arvind Kumar and others

....Petitioners

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Jaideep Verma, Advocate for the petitioners.

Mr. P.S. Bajwa, Additional Advocate General, Punjab
for respondent No.1.

Mr. G.S. Attariwala, Advocate
for respondent No.2.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to an order dated 21.05.2012 whereby the claim of the petitioner for allotment of a plot as a Local Displaced Person was rejected on the ground of delay and laches. Such order was passed consequent to the directions by this Court in CWP No.10458 of 2011 titled Arvind Kumar and others v. State of Punjab and others, decided on 02.06.2011.

A perusal of the order shows that the land of the petitioners became subject matter of acquisition vide notification dated 01.08.1972 published under Section 36 of the Punjab Town Improvement Act, 1922 (for short 'the Act'). Notification under Section 42 of the Act was issued on 18.09.1973 and award was

announced on 20.09.1974. The scheme was transferred to the Municipal Corporation, Ludhiana, on 12.03.1985.

The petitioner claims to have applied for allotment of plot on 15.07.1989 when she deposited Rs.500/- as application money for allotment of a plot. It is the said request for allotment of plot, which has been declined vide the order now passed on 21.05.2012.

Learned counsel for the petitioners argued that six other co-sharers have been allotted plots on various dates in the year 1988 to 1990 whereas the petitioner has been deprived of the plot as a Local Displaced Person in wholly illegal and arbitrary manner. The reliance is placed upon a Division Bench judgment of this Court in CWP No.940 of 2007 titled Ranjeet Kaur v. State of Punjab and another, decided on 23.07.2008.

The allotment of plots to the land owners whose land stands acquired was initially governed by the Rules framed by the Ludhiana Improvement Trust in the year 1964 called Ludhiana Improvement Trust Land Disposal Rules, 1964 (for short '1964 Rules'). Subsequently, the State Government framed Rules for allotment of plots called Utilisation of Land and Allotment of Plots by Improvement Trust Rules, 1975 since repealed by Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983 (for short '1983 Rules'). A Division Bench of this Court in CWP No.14321 of 2009 titled Harjeevan Kaur Garewal and others v. State of Punjab and others, decided on 23.01.2015, has examined the applicability of the aforesaid Rules and held that the allotment of plots has to be made after inviting applications from the persons interested

in terms of 1964 Rules as also 1983 Rules. Rule 11 of 1983 Rules contemplates that the allotments can be made only after applications are invited after publication of advertisement in daily newspapers. The petitioner has applied for allotment of a plot without any advertisement in the year 1990 when such 1983 Rules were in force.

Therefore, the application of the petitioner could not have been entertained for allotment of a plot without any advertisement as per the provisions of the statutory Rules.

The argument of learned counsel for the petitioner that other co-sharers have been allotted plots in the similar manner without inviting applications does not merit any acceptance. It is well settled that there cannot be any parity in the illegality. Reference may be made to judgment of Hon'ble Supreme Court reported as (1995) 1 SCC 745 titled Chandigarh Administration and another v. Jagjit Singh and another.

Even if the respondent-Improvement Trust has not followed the mandate of law while allotting the plots to the other co-sharers, the petitioner cannot claim allotment of plot on the same parity. Therefore, the petitioner cannot claim allotment of a plot merely because co-sharers of the petitioner have been allotted plots in violation of the statutory Rules.

However, we find that the claim of the petitioner for allotment of a plot cannot be ignored for all times to come. As and when the Improvement Trust decides to allot plots meant for the land owners whose land stands acquired, the petitioner shall be at liberty to

apply for the same. The petitioner shall be considered for allotment of plots in accordance with law.

At that stage, with the aforesaid direction and liberty, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

FEBRUARY 10, 2015
‘D. Gulati’

(HARI PAL VERMA)
JUDGE