

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 19652 of 2015 (O&M)

Date of decision : 12.10.2015

...

Jarnail Singh

.....Petitioner

vs.

State of Punjab and others

.....Respondents

**Coram: Hon'ble Mr. Justice Surya Kant
Hon'ble Mr. Justice P.B. Bajanthri**

Present: Sh. Mehar Singh, Advocate for the petitioner.

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

P.B. Bajanthri, J.

The petitioner has questioned the orders dated 15.3.2013 and 8.9.2015 (Annexures P-8 and P-9, respectively) and further sought for directions to the respondents to allot/regularise his possession on Flat No. 610, M.I.G., Phase IX, S.A.S. Nagar, Mohali, under the State government Policies dated 3.11.2008 and 20.9.2011, vide Annexures P-3 and P-5, respectively.

(2) The State Government evolved a policy relating to allotment of residential flats/shops to the victims of 1984 Sikh Riots.

The petitioner and his wife are stated to be victims of 1984 Sikh Riots.

(3) This Court in the case of **Kuljit Singh and others vs. State of Punjab and another** in CWP No. 16345 of 2009, directed the State Government and concerned authorities to evolve an appropriate policy in so far as granting rehabilitation relief to those 1984 Riots victims. Pursuant to the same, the concerned authorities proceeded with the policy and issued advertisement inviting applications from the eligible 1984 Riot-affected victims. In the meanwhile, the petitioner's wife was allotted commercial booth No. 101, Phase X, S.A.S. Nagar, Mohali, under the quota Riot victims. She, however, also continued to retain unauthorized possession of residential Flat No. 610, M.I.G., Phase IX, S.A.S. Nagar, Mohali. This was sought to be vacated by the concerned authorities on the score that petitioner did not apply for allotment of house as per the policy stipulated by the Government and advertisement dated 2.4.2012 issued by GMADA and she is already beneficiary of allotment of 'commercial booth'. Feeling aggrieved by the proposed decision of GMADA, the petitioner's wife approached this Court vide CWP No. 19291 of 2012. The same was disposed of on 27.9.2012 with a direction to respondents No. 2 and 3 to consider her claim in the light of the decision of this Court in the case of **Kuljit Singh's case (Supra)**, and pass appropriate order in accordance with the Government Policies within a period of four months from the date of receiving a certified copy of order. Thereafter, the petitioner

submitted a representation. The same was examined by the GMADA and issued a necessary endorsement dated 15.3.2013, stating that the petitioner is not one of the persons, who have applied for allotment of flat/house as per the policy read with the advertisement dated 2.4.2012.

(4) Thereafter the petitioner is stated to have submitted one more application for reconsideration. The same was rejected on 8.9.2015 vide Annexure P-9 with the direction to the petitioner's wife to vacate House No. M.I.G. 610, Phase IX, Mohali, within 48 hours and deliver the possession of the aforesaid house to Sub-Divisional Engineer (Building), otherwise petitioner's wife will be got evicted forcibly after expiry of the aforesaid period and its possession would be got delivered. The petitioner submitted an appeal on 10.9.2015 before the Additional Chief Administrator, GMADA, Mohali, questioning the validity of the orders dated 15.3.2013 and 8.9.2015, in which he has sought for staying the operation of orders dated 15.3.2013 and 8.9.2015. It seems that the Appellate Authority did not grant any interim relief. Petitioner's wife has since been dispossessed and the flat has been got vacated from her. Hence this petition.

(5) The petitioner has questioned the orders dated 15.3.2013 and 8.9.2015, contending that since his wife, Harbans Kaur was in possession and as such, her claim is liable to be considered as per the policies of the Government. It was further contended that on 12.9.2015, the petitioner was dispossessed from the possession and the GMADA authorities put a seal on the premises, whereas lock is

with the petitioner. The petitioner's wife Harbans Kaur being a 1984 Sikh Riots victim and she is eligible for regularisation/allotment of Flat No. 610, M.I.G., Phase IX, S.A.S. Nagar, Mohali. It was further contended that in the order dated 8.9.2015, only 48 hours time was granted for vacating the house, whereas in the rules, 30 days time has been stipulated. No other grounds are urged to quash the impugned orders.

(6) Heard learned counsel for the petitioner.

(7) The petition can be rejected on the sole ground that grievance relating to the petitioner's wife Harbans Kaur cannot be entertained at the instance of petitioner, as it is her personal claim being an alleged victim of riots.

(8) Secondly, the petition is premature, for the reasons that the petitioner has questioned the orders dated 15.3.2013 and 8.9.2015 in this petition, whereas the same orders have been questioned before the Appellate Authority on 10.9.2015 and the same are pending consideration.

(9) The policy of the State Government is to allot residential flats/commercial shops to the 1984 Sikh Riot victims. The petitioner's wife Harbans Kaur is already one of the beneficiary of commercial booth No. 101, Phase X, S.A.S. Nagar, Mohali, under quota of riot victims. Therefore, she is not entitled to allotment/regularisation of Flat No. 610, M.I.G., Phase IX, S.A.S. Nagar, Mohali. That apart, the petitioner is a riot-victim, nor he applied for allotment of house as per policy stipulated by the Government read with advertisement dated

2.4.2012. Consequently, the petitioner's wife Harbans Kaur is not entitled to allotment/regularisation of Flat No. 610, M.I.G., Phase IX, S.A.S. Nagar, Mohali, under the Riot victims of 1984. The petitioner's wife is not one of the riot victim who had applied for allotment/regularisation of a flat and she is not eligible as she had been allotted commercial booth No. 101, Phase X, S.A.S. Nagar, Mohali, under quota of riot victims. The office of Deputy Commissioner, Mohali, vide letter No. 792 dated 25.8.2011 pointed out that Harbans Kaur, daughter of Teg Bahadur Singh, is at Sr. No. 373 against red card No. 3020, has been allotted commercial booth.

(10) The petitioner contended that vide order/communication dated 8.9.2015 petitioner's wife, who is unauthorizedly in possession of Flat No. 610, M.I.G., Phase IX, S.A.S. Nagar, Mohali, would be vacated within 48 hours, if she does not vacate the aforesaid house. No doubt, under Rule 46, Chapter VI of Power to evict unauthorized persons from premises of the Authority, provides that 30 days time is to be given to the un-authorised possession of the GMADA property. However, even that period is over as on date of filing of the present petition. Therefore, the aforesaid contention is not available to the petitioner. We could have remanded the matter to the Appellate Authority, however, the petitioner argued the case on merit. Moreover, petitioner's wife Harbans Kaur is not eligible for second allotment. The petitioner has not made out a case since his wife is not entitled for regularisation/allotment of Flat No. 610, M.I.G., Phase IX, S.A.S. Nagar, Mohali, as he is ineligible on the score that she had

been already allotted commercial booth. Therefore, the impugned orders are in accordance of the policies of the State Government in respect of regularisation/allotment of residential/commercial flats/shops under the Riot Victims 1984.

(11) Hence, the petition is dismissed.

(12) No order as to costs.

(**Surya Kant**)
Judge

(**P.B. Bajanthri**)
Judge

12.10.2015.
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