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

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Date of Decision: 05.11.2015

Gaurav and others

... Petitioner(s)

Versus

Municipal Corporation, Chandigarh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: None for the petitioners.

Ms. Deepali Puri, Advocate,
for respondent No.1.

Mr. Pritam Saini, Advocate,
for respondent Nos.2 to 22.

Paramjeet Singh, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the resolution No.208.43 dated 28.07.2014 (Annexure P-4) passed by respondent No.1 whereby respondent No.1 has decided to construct booths in place of platforms at a cost of ₹55 lacs even after using all the old material despite the fact that existing structures, constructed in the year 2007, are in a good shape.

Brief facts of the case are to the effect that in fact, the petitioners were unauthorizedly doing the business of selling of old

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books in Sector 15-D, Chandigarh. The said land was actually reserved for cycle-track and road widening. In order to re-settle such old/second hand book sellers, the Administration, Union Territory, Chandigarh exercising the powers conferred by Sections 3 and 22 of the Capital of Punjab (Development and Regulation) Act, 1952 framed a Scheme in the year 2007 known as 'Licensing of Built-up Platforms to the Second Hand Book Sellers of Sector-15, Chandigarh' (for short, '2007, Scheme') for allocation of built up platforms on monthly licence fee basis. The 2007 Scheme was applicable to the second hand book sellers operating from V-3 road in front of Panjab University in Sector-15, Chandigarh. In pursuance of the 2007 Scheme, the petitioners and others were allotted platforms in the year 2007 and they started their business. Thereafter, at the platforms, the petitioners and others have raised temporary structures which are visible in photographs (Annexure P-3), annexed at page Nos.63 to 65 of paper-book. Now with a purpose to construct booths in place of existing temporary structures/platforms, toilet block and road parking in Sector-15-A, Chandigarh, the Municipal Corporation has passed the impugned resolution dated 25.08.2014 (Annexure P-4) and it was unanimously decided by the Municipal Corporation that construction of aforesaid booths be carried out in place of existing platforms including toilet block and parking areas. A relevant extract of the impugned resolution reads as under:

“The House considered and resolved unanimously that the rough cost estimate amounting to Rs.55.37 lacs for construction of Book Sellers Shops in place

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of existing shops including toilet Block and road parking in Sector 15/A, Chandigarh, be and is hereby approved.”

Hence, this writ petition.

In pursuance of notice of motion, respondent No.1- Municipal Corporation, Chandigarh filed short reply with the averments that at the time of allotment, 36 built up platforms in Sector 15-A, Chandigarh were constructed to rehabilitate the old book sellers as per the 2007 Scheme, which were allotted on monthly licence fee basis to the eligible persons including the petitioners through draw of lots on the basis of survey conducted by the Municipal Corporation, Chandigarh and Estate Office, U.T.Chandigarh of old book sellers under the 2007 Scheme. Respondent No.1 received a representation from the Old Books Sellers Welfare Association, which has been signed by 30 members of the Association, who are allottees of Built-up platforms in Sector 15, Chandigarh, with a request to re-build the structures in a single lane and as per the proposed structural drawings, open big spaces for parking be made available for the visitors. It is also averred that existing structures are only temporary structures. These are 8 years old and the same are not safe from the security point of view. There is also no parking in the area for visitors and the area has become accident prone also. There was no toilet block which was causing inconvenience to the allottees, visitors and general public. With a purpose to provide all amenities i.e. specifically parking, toilet and proper structures, impugned resolution (Annexure P-4) has been passed.

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I have heard learned counsel for the respondents and perused the record.

Vide order dated 04.09.2015, learned counsel for respondent No.1 sought time to place on record site plan showing the comparative locations of earlier platforms and now proposed booths along with their numbers.

In pursuance of order dated 04.09.2015, learned counsel for respondent No.1 placed on record site plan (Annexure R-5). Prior to that, various site plans have been placed on record as Annexure R-3, A-4 and R-5. Ultimately, site plan (Annexure R-2/4) has been placed on record depicting the comparative situation, existing platforms and proposed lay out. After the placing on record site plan (Annexure R-2/4), learned counsel for the petitioners sought time to consult the petitioners with regard to proposed site plan and procedure for allotment of booths.

Today, learned counsel for the petitioners has not turned up, rather Mr. A.P.S.Shergill, Advocate appeared on behalf of the petitioners, but he was asked to place on record his power of attorney, he stated that he is not having the same, therefore, he was not permitted to argue the case. The matter has been virtually settled on 29.10.2015 and time was sought to consult the petitioners regarding procedure for allotment. Since none appeared on behalf of the petitioners, this Court deemed it fit and appropriate to proceed with the matter even in absence of learned counsel for the petitioners.

Admittedly, the petitioners have no right in the alleged

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platforms because they had initially encroached upon public property but they had been rehabilitated as per the 2007 Scheme. Now the impugned resolution (Annexure P-4) has been passed to construct booths/shops with a purpose to provide basic amenities such like toilets, proper parking places for the shop-keepers, visitors and public. It is the specific stand of the Municipal Corporation that there were no facilities of parking the vehicles and haphazard parking was resulting into causing traffic hazard and accidents, lack of toilets was resulting into causing inconvenience to shopkeepers, visitors and public. To prevent the same, parking places and a toilet block have been proposed to be constructed. Perusal of comparative site plan (Annexure R-2/4) depicts that the proposed outlay is better one and it provides parking for the public, visitors and shop-keepers and also provides other amenities. The Block (P-2) of the proposed design shown in site plan (Annexure R-2/4) is a parking area and the door of every shop will open towards it and even toilet block has also been provided and each booth/shop is accessible to the visitors. On the other hand, the photographs (Annexure P-3) reveal that the platforms are having temporary structures in the shape of tin-shed and tarpaulin which apparently appear to be dangerous for the human life if high velocity winds blow. These also give a shabby look to the area. Otherwise also, Chandigarh is a planned city of the country and known as “City Beautiful”. The construction of booths instead of platforms covered with tin and tarpaulin will be more useful to the shopkeepers, visitors and inhabitants of Sector-15, Chandigarh.

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In view of above, I do not find any illegality or perversity in the impugned resolution dated 28.07.2014 (Annexure P-4).

It is also pertinent to mention that the petitioners and other allottees of platforms are not unanimous with regard to the procedure for allotment of booths. The proposed design is U-Shape and door of every booth opens towards parking Block P-2. The number to booths have already been assigned in the site plan Annexure R-2/4. There is no unanimity among the petitioners nor their counsel has made a statement as to whether plots/booths which have already been numbered in the site plan can be allotted same numbers as allotted to platforms. In such circumstances, this Court has no option except to hold a draw of lot otherwise also it is the only fair method for allotment. Ordered accordingly. The writ petition stands disposed of. To avoid further delay in construction of booths/shops, the draw of lots will be held today at 3.00 P.M. in Court Room. The Municipal Corporation is directed to prepare the list of earlier allottees with a purpose to finalize the draw of lots.

05.11.2015
parveen kumar

(Paramjeet Singh)
Judge

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Present: None for the petitioners.

Ms. Deepali Puri, Advocate,
for respondent No.1.

Mr. Pritam Saini, Advocate,
for respondent Nos.2 to 22.

File put up at 3.00 P.M. At this stage, Mr. A.P.S.Shergill, Advocate has appeared and stated that he will address the arguments. Since, this Court has already passed the order in the earlier part of the day with a direction to the Municipal Corporation to prepare the list of earlier allottees for holding draw of lots while upholding the impugned resolution (Annexure P-4), therefore, no arguments on behalf of the petitioners can be entertained, at this stage.

When this Court started dictating the order, Mr. Shergill, Advocate has created unpleasant scene in the jam packed court room and went out of Court telling the petitioners and others to come out of the Court. The order in writ petition has already been passed in forenoon and in the afternoon only draw of lots has to be held. The act and conduct of Mr. Shergill is against the established rules of professional conduct. The conduct of learned counsel has lowered the authority of the Court and has weakened the sense of confidence of the people in the administration of justice. The act and the scene created by Mr. Shergill amounts to interference in the due process of administration of justice and such act needs to be taken as a strongest possible exception. It is against the principle of judicial decorum and dignity and is definitely behind the scope of duty of the counsel being an officer of the Court.

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This Court refrains from making any further observations in this matter.

The act and conduct of Mr. Shergill is *prima facie* contemptuous in nature and requires to be dealt with heavy hands but I restrain from initiating the contempt proceedings against him.

The draw of lots has been held in open Court in the presence of counsel for the respondents alongwith some of the respondents, who signed on the list of earlier allottees, which is placed on record as Annexure C-1. The result of draw of lots is as under:

<i>Sr. No.</i>	<i>Name and address of the allottees</i>	<i>Existing Platform No.</i>	<i>Platform/Shop Allotted through draw of lot today</i>
1	Gaurav Gulati S/o Late Sh. H.S.Gulati, # 3271, Sector 41/D, Chandigarh	01	17
2	Satpal s/o Sh. Mange Lal, # 3553, Sector 15/D, Chandigarh	02	36
3	Tanved Ali Khan S/o Md B.W.Khan, # 140, Vill: Lohra, Chandigarh	03	14
4	Parmir Chand S/o Sh. Tulsi Ram, # 2113, Dadu Majra Colony, Chandgiarh	04	34
5	Ishawar S/o Sh. Mishri Lal, # 3555, Sector 15/D, Chandigarh	05	12
6	Naryana S/o Moti Lal, #2340/2, Sector 45, Chandigarh	06	19
7	Ahmed Hussain S/o Mohd Islam, # 5584, Sector 15/D, Chandgiarh	07	21
8	Sri Niwas S/o Lt. Sh. Kali Ram, # 604/1, Sector 38/A, Chandigarh	08	29
9	Balbir Singh S/o Sh. Pramod Singh, # 1343, Chaman Colony, Dhanas, Chandigarh	09	04

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<i>Sr. No.</i>	<i>Name and address of the allottees</i>	<i>Existing Platform No.</i>	<i>Platform/Shop Allotted through draw of lot today</i>
10	Anil Sharma S/o Sh. Subhash Sharma, # 3455, Sector 15/D, Chandigarh	10	05
11	Kamal S/o Late Sh. R.C.Gulai, # 3412, Sector 22/D, Chandigarh	11	11
12	Rakesh Dass S/o Hira Lal, #2306/2, Sector 45, Chandigarh	12	07
13	Suresh Kumar S/o Sh. Jindoo Ram, # 3509, Sector 15/D, Chandigarh	13	26
14	Jatin Sabharwal S/o Sh. M.L.Sabharwal, # 92, Milk Colony, Dhanas, Chandigarh	14	35
15	Jamshed Ali Khan S/o Md B.W.Khan, # 3548, Sector 15/D, Chandgiarh	15	22
16	Sunil Kumar S/o Sh. Hari Chand, # 5255/A, Sector 38 West, Chandgiarh	16	02
17	Sandeep Kumar S/o Sh. Maman Ram, # 358-B, Dashmesh Nagar, Nayagaon.	17	10
18	Jindoo Ram S/o Sh. Chatru Ram, # 4021, Maloya Colony, Chandigarh	18	16
19	Rakesh Sharma S/o Sh. M.L.Shrma, # 3455, Sector 15/D, Chandigarh	19	01
20	Javed Ali Khan S/o Md. B.W.Khan# 3549, Sector 15/D, Chandigarh.	20	15
21	Anand Singh S/o Sh. Chander Singh # 5047, Sector 38 West, Chandigarh	21	03
22	Devender S/o Sh. Karan Singh 3448, Sector 15/D, Chandigarh	22	13
23	Vickey Kumar S/o Lt Sh. Bhola Nath, SCF 78-79, Sector 15/D, Chandigarh	23	25
24	Sanjay Kumar S/o Lt. Sh. Ram Swroop, # 3532, Sector 15/D, Chandigarh	24	28

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<i>Sr. No.</i>	<i>Name and address of the allottees</i>	<i>Existing Platform No.</i>	<i>Platform/Shop Allotted through draw of lot today</i>
25	Gurucharan Gulati s/o Lt. Sh. S.L.Gulati, # 365, Sector 45, Chandigarh	25	24
26	Tilak Raj S/o Sh. Karam Chand # 3494, Sector 15/D, Chandigarh	26	31
27	Azad Singh S/o Sh. Maman Ram, # 358-B, Dashmesh Nagar, Nayagaon	27	33
28	Anil Kumar S/o Deep Chand, # 1213, Ram Darbar, Ph-II, Chandigarh	28	32
29	Chander Mohan S/o Lt. Sh. Bhola Nath, # 3427, Sector 15/D, Chandigarh	29	18
30	Smt. Bishna Devi W/o Lt. Sh. Bhagat Bahadur, # 3436, Sector 15/D, Chandigarh	30	09
31	Rakesh Kumar S/o Sh. Zile Singh, # 3965, Sector-56, Chandigarh	31	20
32	Smt. Sheela Devi w/o Lt Sh. Deep Kumar, # 1052, Dadu Majra Colony, Chandigarh	32	30
33	Mainuddin S/o Md Sabbir # 4879, Maloya Colony, Chandigarh	33	27
34	Smt. Indu Devi W/o Lt. Sh. Ambu Lal, # 4914, Maloya Colony, Chandigarh	34	23
35	Sandeep Kumar S/o Sh. Kanhiya Lal, # 3, Near Ankur School, Panjab University, Chandigarh	35	06
36	Not yet allotted	36	08

The slips containing particulars of the allottees, used for holding draw of lots upon which number of shops/booths were recorded, have been sealed in an envelope and shall form the part of record. The numbers of shops/booths, allotted during draw of lots, were also noted by

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the official of the Municipal Corporation, Chandigarh on the list of allottees of the platforms. The list has been signed by Ms. Deepali Puri, Advocate for respondent No.1 and Mr. Deep Chandra Joshi, Clerk of the Municipal Corporation, Chandigarh and the same is also taken on record as Annexure C-2.

Since proposed shops have been allotted, by draw of lots, the grievance of the petitioners stands redressed. Respondent No.1 shall initiate proceedings for taking over possession in accordance with law within 15 days from the receipt of copy of this order. The occupants of platforms are directed to vacate the platforms presently in their possession and hand over vacant possession to respondent No.1. Respondent No.1 may extend the time, if required. Respondent No.1 shall carry out the construction as per the proposal expeditiously and hand over possession to the allottees as per the draw of lots held today.

In view of above, instant petition is disposed of.

05.11.2015

parveen kumar

(Paramjeet Singh)
Judge