

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21764 of 2014
Date of Decision:-8.12.2015.

Ajit Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

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?

Present: Mr. Mandeep Singh, Advocate for
Mr. Amit Dhawan, Advocate for the petitioner.

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Mr. Balwinder Singh, Advocate for
respondent Nos.2 and 3.

SURYA KANT, J. (ORAL)

1.) The petitioner seeks quashing of orders dated 10.3.1998, 28.7.1999 and 24.4.2007 (P-6 to P-8 respectively). Vide the first order, the allotment of 100 square yard plot No.1747, Phase 2, Urban Estate Durgi Road, Ludhiana made on 10.11.1982 was cancelled on the ground that the petitioner failed to deposit 25% of the allotment price within the stipulated time, the subsequent orders pertain to rejection of her statutory appeal and revision petition.

2.) The photographs on record reveal that a small dwelling unit has since been constructed by the petitioner at the site.

3.) When the matter came up for preliminary hearing on 28.10.2014, it was contended *inter alia* that the petitioner had already deposited the due amount and the pending dues were nothing but a demand allegedly raised by mistake. On November 16, 2015, we directed the respondents to clarify whether any formal order cancelling the allotment was passed or communicated to the petitioner on the ground of non-deposit of 25% of the allotment price. The reply thereto is that no such order was passed.

4.) In this factual scenario, the respondents have attempted to justify their action on the strength of a totally new plea that the husband of the petitioner has got allotted a residential plot in the draw of lots, hence she became ineligible to seek allotment of second plot as only one plot can be allotted to a family as per the Government Policy.

5.) On the other hand, the petitioner controverts the afore-stated objection, it being totally misconceived and misdirected, as the allotment made in favour of her husband was in open category in a draw of lots whereas she falls in the category of "1984 Riot Affected Victims." The respondents controvert the claim of petitioner as according to them she never applied in the above stated reserve category of "Riot Affected Persons" and her allotment too is in open category.

6.) We have heard learned counsel for the parties at some length and gone through the record.

7.) The respondent-Authorities concededly did not inform the petitioner about cancellation of the allotment for non-deposit of 25% of the allotment price. No cancellation order was passed though a proposal to this effect was made on the file. The petitioner, meanwhile, deposited 30% of the allotment price which was accepted by the Authority. No order to refund that amount was also passed for a considerable long period. The petitioner was made to understand that her allotment stood regularized as no further action to evict her from the site was also taken. She had meanwhile constructed a small dwelling unit and started living there along with her six daughters.

8.) The question whether the petitioner is a victim of '1984 Riots' and thus entitled to retain the plot under that special category can be determined by the Authorities without any loss of time, for every such victim has been issued a Red Card. The Riot victims are undisputably entitled to allotment of one residential/commercial unit in terms of the Central/State Government Policies which have been elaborately considered by this Court in CWP No.16345 of 2009 titled **"Kuljit Singh and others Vs. State of Punjab and another"** decided on 14.9.2010 while directing to make allotments in favour of Riot victims. This Court in LPA No.260 of 2011 and other connected matters titled **"Greater Mohali Area Development Authrotity Vs.**

Kuljit Singh and others” decided on 15.2.2011, upheld the above-cited order.

9.) Since the District Administration, Ludhiana must have maintained complete record of: (i) *bona fide* Riot victims living in Ludhiana city to whom Red Cards have been issued, (ii) whether or not any residential or commercial property has been allotted to such Riot victims, (iii) whether such an allotment has been made in favour of petitioner's family members also and (iv) whether the riot-victim, namely the petitioner, fulfills the eligibility conditions for allotment, we see no reason as to why the respondent-Authorities, in co-ordination with the District Administration, are unable to verify the status of the petitioner and then determine whether she is entitled to the allotment of a dwelling unit being a “Riot victim”. Needless to say that if the petitioner is a *bona fide* Riot victim to whom no benefit under the Government policies referred to in **Kuljit Singh and others' case** (supra) or subsequent cases has been extended so far, she too is entitled to allotment of a dwelling unit irrespective of the subsequent allotment made in favour of her husband in a draw of lots. No such exercise has been undertaken by the Authorities before mechanically passing the impugned orders.

10.) The writ petition is thus allowed; impugned orders (P-6 to P-8) are hereby quashed. The Deputy Commissioner, Ludhiana and Chief Administrator GLADA are directed to hold a joint meeting and verify the status of the petitioner as a “1984 Riot Victim”. If it is found

that she is a *bona fide* Riot Victim and entitled to allotment of a dwelling unit as per the Government Policies, the subject plot shall be restored in favour of the petitioner save she deposits the due installments along with interest, if any, payable as per the terms and conditions of allotment. Keeping in view the peculiar facts and circumstances of the case, it is directed that if the petitioner is found entitled to allotment of a unit smaller than the subject plot, yet the subject allotment shall be regularized in her favour. The Deputy Commissioner and Chief Administrator GLADA shall do the needful within a period of four months.

11.) **Dasti only.**

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

December 8, 2015.

sandeep sethi