

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

CWP No.25595 of 2015

Date of Decision : 7.12.2015

Estate Officer, Union Territory

....Petitioner

Versus

Shobhawati and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present: Ms.Harsh Rekha Kapoor, Advocate
for the petitioner.

.....

MAHESH GROVER.J.

The petitioner is Estate Officer, Union Territory, Chandigarh, who questions the order passed by the Permanent Lok Adalat (Public Utility Services) dated 6.2.2014 entitling the respondent No.1 to an alternate residential site in terms of “The Chandigarh Small Flats Scheme, 2006”, amended on 8.7.2015 (hereinafter referred to as 'the Scheme') meant for rehabilitation of slum dwellers. “Recognized Resident” has been defined in the said Scheme to mean as follows :-

“Recognized Resident' means a resident of
a Notified Colony whose name is included both in the
voter list of 2006 as well as in the Bio Metric Survey
conducted by the Chandigarh Administration in the
year 2006 and is continuously residing in the colony

and shall also include a resident of a notified colony whose name does not appear in the voter list as on 1.1.2006 but appears in the voter list as on 1.1.2004, 1.1.2005, 1.1.2007 and 1.1.2008. In addition to voter list, the documents towards proof of residence issued under any of the Statute such as Motor Vehicles Act, 1988 and the Passport Act, 1967 as a proof of residence between the 2004 to 2008 shall also be valid.

Proof of residence as enlisted in scheme has to be of a date prior to the cut off date, whether a name in voter list, documents towards proof of residence issued under any of the Statute or bio-metric survey. A relaxation in this regard will only result in misuse. Absence of name in the voter list or documents towards proof of residence issued under any of the Statute prior to cut off date implies that the family was not settled permanently there.

Provided that in case of the demise of the Recognized Resident, one member of his family, as defined above, who fulfils the conditions of the Recognized Resident will be eligible for being a licensee.”

It was further clarified by Clause 3 that persons whose name appears in the bio-metric survey and voter list dated 1.1.2006 or in some other contingencies indicating proof of residence shall be eligible for allotment of a flat. The said clarification is also extracted herebelow :-

“All persons whose names appear in the biometric survey and voter list as on 1st January, 2006 or in the documents issued under any of the Statute such as Motor Vehicles Act, 1988 and the Passport Act, 1967 as a proof of residence between the 2004 to 2008, shall be eligible for allotment of a flat on license basis. The name of the person should also appear in the latest voter list of the year in which allotment is to be made. However, if a person whose name was not found in the year 2013 (the year of demolition of the colony) Voters list but had applied for vote and his name appeared in 2014 voter list, which is merely a reproduction of what is contained there in 2013 Voter list and his name became available in 2014 Voter list in the same colony, is eligible for allotment of small flat.

Provided that any person whose name appeared in biometric survey but does not appear in

the voter list as on 1.1.2006 shall also be eligible for allotment of flat under the scheme if his name appears in the voter list as on 1.1.2004, 1.1.2005 and 1.1.2007 or 1.1.2008 or in the documents issued under any of the Statute such as Motor Vehicles Act, 1988 and the Passport Act, 1967 as a proof of residence between the 2004 to 2008.

Provided further if the finger print impressions are not available or the quality of the same is poor, the applicant shall not be deprived of allotment of a flat only for the reasons provided his/her identity is established on the basis of such other evidence as the Committee may consider appropriate. However to ward off attempts at impersonation, this will be done by giving public notice in Press and obtaining undertaking from the persons about his/her identity. In any case, impersonation is crime and law will take its course if someone poses to be someone figuring in the survey.”

A perusal of the above would indicate that great emphasis has been laid on the procedure and manner in which authenticity has to be lent to the claim of a genuine resident, bio-metric survey and voter list being just one of the principle

sources of recognition.

It is not in dispute that the husband of respondent No.1 participated in the bio-metric survey in which respondent No.1 is recorded as his wife. The principal member of the family being the husband of respondent No.1 died before the allotment could be made.

The claim of respondent No.1 for allotment is now being questioned by the present petitioner by alleging that she was not a 'recognised resident' in terms of the Scheme as she neither participated in the bio-metric survey nor her name appears in the voter list for the years 2006, 2004, 2005, 2007 and 2008.

On due consideration I am of the opinion that the claim of the petitioner is totally erroneous. Concededly, the bio-metric survey is one of the principle modes of recognition to establish a recognized resident to enable him to the benefits of the Scheme. It is not in dispute that the husband of respondent No.1 did participate in the bio-metric survey and in this survey when particulars were given respondent No.1 was shown and recorded as his wife residing with him. Unfortunately, the principal applicant died, therefore, the claim would naturally open to his wife and if the survey conducted by the petitioner, the authenticity of which is not questioned by the present petitioner, the husband of the petitioner is recorded as a recognized resident,

then I am of the view that there should be no hesitation in considering the claim of respondent No.1 as a recognized resident, since the bio-metric survey would clearly establish her to be the wife of the deceased who was residing with him. I do not thus find it to be a fit case to warrant any interference.

Dismissed.

7.12.2015
dss

(MAHESH GROVER)
JUDGE