

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

CWP No.26694 of 2014

Date of decision:14.1.2015

Ajit Kaur

....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Anil Chawla, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The claim in the present writ petition is for issuance of writ of certiorari for quashing the order dated 09.06.1987 whereby the draw of lots which led to allotment of a plot to the petitioner was cancelled.

An advertisement dated 25.07.1985 was published by Improvement Trust for allotment of plots including the plots reserved for Government employees. The petitioner responded to such advertisement and was considered for draw of lots. However, the petitioner was informed on 02.12.1986 that she is successful in the draw of lots and was called upon to furnish certain information but the plot was not allotted as Government regretted their inability to agree with the proposal of Improvement Trust for allotment of plots vide communication dated 09.06.1987 (Annexure P-3).

The present writ petition has been filed more than 27 years later challenging the decision of the State Government. In the meantime, the petitioner had filed a civil suit for permanent injunction

restraining the Improvement Trust to allot the plot in question to any other person. Such suit was dismissed on 04.06.1990. The first appeal against the said judgment and decree was dismissed on 09.09.1999.

The petitioner also relies upon an order passed in the writ petition bearing CWP No.6329 of 2002 titled A.S. Puri v. The Amritsar Improvement Trust which was allowed by Division Bench of this Court on 20.11.2003. The petitioner asserts that the ground of not allotting a plot to the petitioner was identical as in the case of A.S. Puri's case (supra). Therefore, on the basis of parity in the judgment of A.S. Puri's case (supra), the petitioner is entitled to allotment of a plot in which she was successful. Learned counsel for the petitioner also pointed out that the plot was allotted to Mr. Puri in the year 2013 in pursuance of the direction of this Court in CWP No.20987 of 2008 titled Major A.S. Puri v. State of Punjab and another, decided on 19.07.2010.

We have heard learned counsel for the petitioner and find no merit in the present writ petition. The writ petition suffers from gross delay and laches. For 27 years, the petitioner has not challenged the decision of the State Government before any Competent Court or Authority. In the Civil Suit filed thereafter, the petitioner has not laid any challenge to the said communication but was satisfied to claim a decree for permanent injunction. Since, the cause of action to dispute the cancellation of draw of lots was available and was not raised in the suit for permanent injunction; the dispute now raised is barred by the principles of Order 2 Rule 2 of the Code of Civil Procedure.

Even on the strength of A.S. Puri's case (supra), we find that the writ petition suffers from gross delay and laches. The writ

petition of A.S. Puri was allowed in the year 2003 but the present petition has been filed 11 years later. . The Improvement Trust has filed Special Leave Petition against the order passed by Division Bench of this Court in the year 2003. The appeal was dismissed in the year 2007. It is thereafter, the plot was allotted.

Even the argument based on the second writ petition filed by Mr. Puri is not tenable. The second writ petition referred by learned counsel for the petitioner was to dispute the rate on which the plot was to be allotted. Therefore, the said judgment in the second writ petition does not provide any assistance to the arguments raised.

We do not find that the petitioner can be permitted to dispute the non-allotment of plot at this stage. The writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

JANUARY 14, 2014
‘D. Gulati’

(HARI PAL VERMA)
JUDGE