

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7060 of 2015

Date of Decision: 20.4.2015

Ramesh Kumar

....Petitioner.

Versus

The State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. Sameer Sachdeva, Advocate for
Mr. Surinder Thakur, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus directing the respondents to allot the shop to him on priority basis in ground floor of 0.46 acre scheme in front of Balmiki Chowk, Pathankot being a displaced persons since 2006.

2. The petitioner had been doing the work of engine mechanic in a khokha/shop in front of Bus Stand, Pathankot by paying tehbazari/rent since 1970 till 2006. The said premises were allotted to the petitioner by the local authorities under tehbazari and he paid all the dues from time to time. In the year 2006, some local persons filed a Public Interest Litigation (PIL) bearing CWP No. 10946 of 2006 in this Court for removing congestion from roads in Pathankot by clearing the encroachments in pathways. During the pendency of the said writ petition, the petitioner was removed from the spot. This Court vide order dated 4.12.2008 (Annexure P-1) disposed of the said PIL directing the Improvement Trust, Pathankot (in short "the Trust") to remove all the

stalls so that footpaths are made available and to take all such steps to make and implement suitable rehabilitation/ relocation plans for the affected persons who have been deprived of their livelihood. In pursuance thereto, resolution dated 13.6.2007 (Annexure P-2) was passed by the Trust for demolishing 28 shops including the shop of the petitioner and to rehabilitate the persons whose shops were totally demolished. The said resolution was approved by the Department of Local Government, Government of Punjab vide letter dated 21.11.2008 (Annexure P-4). On 3.9.2010, the petitioner was called by the Trust for submitting the application form for the allotment of shop and to sign the agreement and the petitioner submitted the application dated 3.9.2010 (Annexure P-5). Vide allotment letter dated 13.9.2010 (Annexure P-6), the petitioner was allotted shop/staircase (approximately 3' x 13') falling between shops No. 42 and 43 in Shyama Parsad Mukherjeet Market, Pathankot. The rent agreement (Annexure P-6) was executed between the petitioner and the Trust. As per the rent agreement, the petitioner make all the payments and started doing his work of engine mechanic. As per the permission dated 8.7.2013 (Annexure P-9) granted by the Trust, the petitioner erected the shutter in front of his shop for safeguarding his material lying in the shop. However, the office bearers of local trade association and some other shopkeepers demolished the repair and construction of the petitioner. The police reached at the spot and inquired the matter. On asking the requisite documents for doing repair work and construction, the petitioner produced the said documents. But no action was taken by the police. However, the Trust vide letter dated 15.7.2013 cancelled the allotment of the petitioner which the petitioner challenged before this Court by way of CWP No.

21000 of 2013. This Court vide order dated 20.9.2013 (Annexure P-10) granted status quo regarding the shop in question. The Trust in its drive to remove encroachments from Balmiki Chowk demolished seven shops whereby those displaced persons took directions from this Court for deciding their legal notice for rehabilitation within three months. As per RTI information dated 9.1.2015 (Annexure P-11), the Trust had allotted shops to the said seven displaced persons in 0.46 Acre Scheme in front of Balmiki Chowk. Thereafter, the petitioner sent a legal notice dated 12.1.2015 (Annexure P-14) to respondents No.1 and 2 for allotment of ground floor shop in 0.46 Acre Scheme opposite Balmiki Chowk on priority basis to displaced person, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a legal notice dated 12.1.2015 (Annexure P-14) to respondents No.1 and 2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the legal notice dated 12.1.2015 (Annexure P-14), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

April 20, 2015
gbs

(SHEKHER DHAWAN)
JUDGE