

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

CWP No.12420 of 1999

Date of decision : 16.02.2016.

Satish Kumar Sharma, IPS

.....Petitioner

Versus

The Chandigarh Administration and others

..... Respondents

2nd

CWP No.14740 of 1999

Date of Decision : 16.02.2016.

Anil Kumar Sharma, IPS and another

.....Petitioners

Versus

The Chandigarh Administration and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Sukhdip Singh Brar, Advocate for the petitioner
(in CWP No.12420 of 1999)
Mr. Raman Sharma, Advocate for the petitioners.
(in CWP No.14740 of 1999)
Mr. A.P.Setia, Advocate for respondents No.1 and 2.
(in CWP No.12420 of 1999) and
(for respondent Nos. 1 to 3 in CWP No.14740 of 1999)

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

A similar question arises in both the petitions. We accordingly
dispose of both the petitions by a common order and judgment.

2. We will first deal with CWP No.12420 of 1999. Respondent

No.4 is the President, Punjab State IPS Officers, Cooperative Building Society Limited (hereinafter referred to as the 'Society'). The petitioner claims to be the member of the society. Respondent No.2 is the Registrar, Cooperative Societies, U.T. Chandigarh and respondent No.3 is the Assistant Estate Officer-cum-Convenor Screening Committee, U.T. Chandigarh.

3. The petitioner is aggrieved by the decision of the respondents for being held ineligible for membership of the society and for allotment of the plot. In December, 1994/January, 1995, the society was allotted a plot under the “Chandigarh Allotment of Land to Cooperative House building Societies Scheme 1991”. Clause-6 reads as under:-

“6. Eligibility. - A society may be considered eligible for allotment of land if it is duly registered with the Registrar, Co-operative Societies, Union Territory, Chandigarh functioning properly having sufficient funds/resources to pay the premium, to undertake the construction work, to complete it in a stipulated period, and that each of its members fulfils the following conditions:-

- (i) He is a bona fide resident of the Union Territory of Chandigarh and should be residing in Union Territory, Chandigarh at least for last two years on the date of the allotment of land to the Society;
- (ii) He is an employee of the Central Government/Corporation owned or controlled by Central Government stationed at Chandigarh on the date of notification of Scheme or has served in the past at Chandigarh, or
- (iii) He is an employee of Union Territory Administration or

States of Punjab and Haryana or any Corporation owned or controlled by Union Territory or State Governments referred to above and is either serving at Chandigarh on the date of notification of the Scheme or has served in the past; or

(iv) He is a retired from the Government or Corporation referred to at (ii) and (iii) above and residing at Chandigarh.

An applicant member may be eligible for allotment of dwelling unit in accordance with his monthly income one dwelling unit out of the dwelling units constructed per acre, as per category given below:

(A)(1) 25 Dwelling Units per acre Category "A"

(2) 35 Dwelling Units per acre Category "B"

(3) 45 Dwelling Units per acre Category "C"

(The density shall not in total exceed 40% of the covered area)

(B) Income Group

Members having monthly income of Rs. 5,001 and above
"A"

Members having monthly income of Rs. 2,001 to 5,000 "B"

Members having monthly income upto Rs. 2,000 "C"

Provided that no society shall be eligible for allotment of a site under this scheme if any of its members, their spouses or dependent children already owns, either on free-hold, lease-hold or hire purchase basis, a dwelling unit or a residential House/site/flat at Chandigarh, Manimajra, Panchkula and S.A.S. Nagar (Mohali).

Provided further that not more than one member of a family shall be a member of any such Society and no more than one dwelling unit shall be allotted to one family.

Provided further that no individual/Society shall part with the possession of the land or dwelling unit before the expiry, of at least 5 years from the date of allotment”.

4. Admittedly, the petitioner was not a resident of the U.T. Chandigarh during the period mentioned in clause-6(i). He did not meet the eligibility criteria stipulated in clause-6. Respondent No.4, therefore, rightly rejected his application for membership. If any of the members of the society did not meet the eligibility criteria, the society would have been ineligible for the allotment of a plot under the 1991 scheme. Clause-6 especially states that the society may be considered eligible for allotment of land *inter alia* if its members fulfil the conditions mentioned therein, one of which is that the member must be a *bona fide* resident of U.T. Chandigarh and should be residing in U.T.Chandigarh for at least the past two years on the date of the allotment of land to the society. If any of its members did not fulfil the eligibility criteria, the society could not have made an application for the allotment of a plot.

5. The reliance upon the fact that the society was registered on 30.06.1991 is irrelevant. The official respondents are not concerned with the date of registration of the society. The 1991 Scheme does not prevent the society being registered even if they do not fulfil the eligibility criteria as mentioned in clause-6, thereof. Every society is entitled to registration subject to its fulfilling other requirements of law. Clause-6 of the said scheme deals with the entitlement of a society to be allotted a plot. Thus, merely because the society is registered prior to the year 1991, it will make

no difference. If it does not comply with the eligibility criteria mentioned in clause-6, it would not be entitled to the allotment of a plot.

6. CWP No.12420 of 1999 is, therefore, liable to be dismissed.

7. This brings us to CWP No.14740 of 1999. The petitioners in this case also admittedly, do not fulfil the criteria as stipulated in clause-6. Their reliance upon the fact that they were admitted as members of the society prior to the introduction of the 1991 scheme is irrelevant. The official-respondents are not concerned with the date on which the society is registered. Nor are they concerned with the date on which a person may have obtained membership of the society. They are concerned with whether the society fulfils the criteria of clause-6 at the relevant time. The relevant time is stipulated in clause-6 of 1991 scheme. They must therefore, fulfil the eligibility criteria on the date of the application and right up to the date on which the allotment is made. We have in fact so held by our order and judgment of even date in CWP No.12420 of 1999 titled as Satish Kumar Sharma, I.P.S. Vs. The Chandigarh Administration and others.

8. The petitions are, therefore, dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

16.2.2016
Manoj Bhutani

(ARUN PALLI)
JUDGE