

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

CWP No. 13769 of 2015

DATE OF DECISION : 16.08.2016

Sunita (now deceased) through her LRs

.... PETITIONER

Versus

Chief Administrator, Union Territory, Chandigarh and another

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Harish Bhardwaj, Advocate,  
for the petitioner.

Mr. Suvir Sehgal, Advocate,  
Senior Standing Counsel for UT, with  
Mr. Jaivir Chandail and Mr. Shiv Kumar Goel, Advocates,  
for the respondents.

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**RAMENDRA JAIN , J.**

1. Smt. Sunita, a handicapped lady, had filed this petition under Article 226 of the Constitution of India, for issuance of a writ in the nature of certiorari to quash the orders dated 07.01.2008 and 30.03.2015 (Annexures P-10 and P-11), passed by respondent Nos.2 and 1, respectively, rejecting the provisional allotment of Jhuggi/plinth No. 65, Kumhar Colony, Sector 25, Chandigarh, in her favour. Unfortunately, during the pendency of the petition, she died on 28.02.2016 and vide order dated 08.07.2016 passed by this court, her husband Paramjit and minor daughter Mannat have been ordered to be impleaded as her legal representatives, only to pursue this petition. Hereinafter, Sunita has been referred to as the petitioner in this

order.

2. The case of the petitioner is that prior to the year 1991, she had been residing with her parents in Jhuggi No. 439, Kumhar Colony, Chandigarh, which was later on marked as Jhuggi No. 289. Vide application dated 03.11.1999 (Annexure P-3), the petitioner had applied for license of a tenement/site under a scheme framed by the Chandigarh Administration, called "Licensing of Tenements and Sites and Services in Chandigarh Scheme, 1979" (hereinafter referred to as 'Scheme of 1979'). Her name was included in the tentative list of eligible persons and was shown at Serial No. 861, in the public notice (Annexure P-4) given in the news paper "Dainik Bhaskar" on 19.10.2003. Subsequently, in the draw of lots conducted on 02.02.2005, the petitioner was provisionally allotted plinth site No. 65. However, vide noting dated 03.04.2006 (Annexure P-6) by the Dealing Assistant of the office of respondent No.2, application of the petitioner for allotment of plinth site was kept pending, on account of an objection that she was claiming the plinth site on the basis of vote of her late father. Thereafter, the Screening Committee scrutinized the matter at length and vide noting dated 17.05.2006 (Annexure P-7) recommended for rejection of the claim of the petitioner on the ground that the name of her father mentioned in her ration card differs with the name given in the voter list. The petitioner along with her husband appeared before respondent No.2. After hearing them and perusing the proceedings of the Screening Committee, following discrepancies were found by respondent No.2 :-

*"1. In the voter list of year 1993 she was second voter against jhugi No. 439 and Ist voter was only lady Smt. Ripi Devi w/o Sh. Anup aged 34 years. She claims that the first voter was her mother and produced*

*death certificate of Smt. Sarpa Devi (name differs).*

2. *Her name (as claimed) figures in the voter list as daughter of Rishi Pal in the year 1993 and daughter of Rikhi Ram in the year 1998.*
3. *Her husband's handicapped certificate issued in 1998 at the address of PGI house as mentioned above.*
4. *Though she stated that she was married in the year 1990, her husband's name is not figuring in any of the voter list of 1993 or 1998."*

However, keeping in view the fact that the petitioner and her husband Shri Paramjit Singh are handicapped, respondent No.2 recommended that the petitioner could be considered for allotment of site against jhuggi No. 439 as a special case after obtaining detailed affidavit from both of them. Vide order dated 07.11.2007 (Annexure P-8), the Estate Officer agreed with the aforesaid recommendation of respondent No.2. Accordingly, the petitioner again appeared before the Screening Committee on 23.11.2007 and submitted her affidavit dated 15.11.2007 (Annexure P-9). But the Committee in its report dated 23.11.2007 observed that the explanation furnished by the petitioner was not found to be satisfactory as per the facts on record and in view of the discrepancies already captured by the Screening Committee, which still stand, allotment of tenement cannot be recommended. It was further observed that the physical condition of the petitioner and her husband could not be considered by the Screening Committee for allotment of tenement. Ultimately, the provisional allotment of plinth No. 65, Kumhar Colony, Sector 25, Chandigarh, was rejected by

the Estate Officer vide order dated 07.01.2008 (Annexure P-10). The aforesaid report dated 23.11.2007 of the Screening Committee and the order dated 07.01.2008 were challenged by the petitioner before the Chief Administrator, U.T. Chandigarh, by way of appeal. The said appeal was also dismissed by the Appellate Authority vide order dated 30.03.2015 (Annexure P-11).

3. Hence, by way of the instant petition, the petitioner impugned both the aforesaid orders dated 07.01.2008 and 30.03.2015.

4. Learned counsel for the petitioner argued that the rightful claim of the petitioner has been rejected by the respondents on the vague grounds of her identity, and against the spirit of the Scheme of 1979. It is a matter of fact that the petitioner was residing in Jhuggi No. 439 (which was later on numbered as Jhuggi No. 289) separately from her parents and she mentioned this jhuggi number in her application dated 03.11.1999. In the application, she further mentioned the name of her husband Paramjit Singh. Her mother had been living in a separate jhuggi No. 302 and Jhuggi No. 289/439 was belonging to the petitioner alone as per her identity card dated 26.11.1994 (Annexure P-12), wherein she had been residing earlier to her marriage and also after her marriage with her husband Paramjit Singh. The claim of the petitioner cannot be rejected for the fault on the part of the Election Commission, if any, qua misprinting in the voter list pertaining to the year 1993 and 1998. Once it was observed by respondent No.2 that case of the petitioner for allotment of site against Jhuggi No. 439 be considered as a special case on account of the fact that she and her husband are handicapped, the Screening Committee wrongly recommended for rejection of the claim of the petitioner. The Scheme of 1979 was floated just to give

benefits to the downtrodden people, such as the petitioner, who have no resource at their end.

5. On the other hand, learned counsel for the respondents argued that the petitioner did not fulfill the eligibility criteria of the Scheme of 1979, as her name was not enrolled in the Voter list of 1995-96 which is pre-requisite condition for allotment. This eligibility criteria has been upheld by a Division Bench of this Court in a case titled “Dinesh Kumar and others Versus Union Territory, Chandigarh” (CWP No. 2317 of 2014), while holding that the voter list was made condition of eligibility for the reason that it is prepared under a Statute i.e. The Representation of People Act, 1950 and after a door-to-door survey. It was also held that the requirement of name in the voter lists cannot be held to be unjustified. The Scheme of 1979 stood repealed vide notification dated 28.08.2003 and subsequently, the Chandigarh Administration floated a new rehabilitation Scheme in the year 2006, known as “Chandigarh Small Flats Scheme 2006”. In pursuance of this new scheme, the Chandigarh Housing Board issued the application forms to all the Jhuggi dwellers of 18 identified colonies, including Kumhar Colony, Sector 25, Chandigarh. But the petitioner again failed to fulfill the criteria of the allotment under the said new Scheme of 2006, as her name was not enrolled either in the Bio-metric survey record or in voter lists from the year 2004 to 2008 in any identified colony in Chandigarh for allotment under the new Scheme of 2006.

6. We have given our thoughtful consideration to the arguments advanced by learned counsel for the parties.

7. The petitioner is claiming allotment of a tenement/site under the Scheme of 1979. Clause 7 of this Scheme reads as under :-

7. (1) *With respect to every block of a labour colony selected for clearance, allotment of [a Tenement in a multi-storeyed flat] as the case may be, shall be made as under :-*

- i) A family unit shall be entitled to one tenement/site as the case may be provided they fulfill all the conditions under this scheme.*
- ii) A family unit of a recognized resident shall be entitled to allotment of a tenement provided he fulfills all the conditions laid down under this scheme.*
- iii) A person who owns more than one house in any of the Labour Colonies in his own name or in the name of any dependent member of his family, shall be entitled to the allotment of only one tenement or {residential site} as the case may be under this Scheme.*
- iv) All persons whose names appear in any of the voter list between 1990 and date of election of Municipal Corporation i.e. 8<sup>th</sup> December 1996 and proved to be continuous bona fide resident from the date of entry in the said electoral list till date, shall be eligible for rehabilitation.*  
*[Provided that migrants whose name do not figure in the Electoral Rolls as on 8<sup>th</sup> December 1996 will not be eligible for rehabilitation in the Union Territory, Chandigarh and unauthorized encroachment construction made by them shall be removed in accordance with law.]*

8.

Learned counsel for the petitioner has not been able to show

that the name of the petitioner appears in any of the voter list of 1995-96. In the absence of fulfillment of this pre-requisite condition for allotment under the Scheme of 1979, the petitioner cannot be allowed to derive any benefit of the Scheme of 1979. The Screening Committee found that several discrepancies as noticed in the earlier part of the order were existing in the case of the petitioner, therefore, her case could not be recommended for allotment.

9. In view of the aforesaid facts, we are of the opinion that the Chief Administrator, UT Chandigarh, vide order dated 30.03.2015 (Annexure P-11) rightly upheld the order dated 07.01.2008 (Annexure P-10), rejecting the provisional allotment of Jhuggi/plinth No. 65, Kumhar Colony, Sector 25, Chandigarh, in favour of the petitioner. We do not find any reason to interfere with the impugned orders passed by the authorities below.

10. Petition is, accordingly, dismissed.

**( RAMENDRA JAIN )**  
**JUDGE**

August 16, 2016  
ndj

**( AJAY KUMAR MITTAL )**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes