

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

CWP No. 15986 of 2016

DATE OF DECISION : 05.10.2016

Chander Shekhar

.... PETITIONER

Versus

The Estate Officer (Colony A/Cs Wing), Chandigarh and another

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Deepak Agnihotri, Advocate,
for the petitioner.

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RAMENDRA JAIN, J.

1. The petitioner has filed this petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order/letter dated 23.05.2016 (Annexure P-10) issued by the Estate Office, Union Territory, Chandigarh, informing him that his request for allotment of small flats under the Chandigarh Small Flats Scheme, 2006 (hereinafter referred to as 'the Scheme of 2006') has been rejected. Further direction has been sought to the respondents to allot a dwelling unit to the petitioner in terms of Scheme of 2006.

2. The case of the petitioner is that he was resident of hutment number 2765, Block K, Colony No.5, near Sector 45, Chandigarh. As per the Scheme of 2006, residents of 18 colonies, including the inhabitants of the said colony, were to be rehabilitated by the Chandigarh Administration.

Accordingly, in the month of December, 2013, the Chandigarh

Administration removed the said hutment of the petitioner. Therefore, in terms of the Scheme of 2006, he claimed allotment of a dwelling unit. When his claim was not considered, the petitioner filed CWP No. 25904 of 2014, which was disposed of by this court vide order dated 20.02.2015 (Annexure P-3) with a direction to the respondents to examine his claim in terms of Division Bench decision of this court in CWP No. 2317 of 2014 titled **Dinesh Kumar and others Vs. U.T. of Chandigarh and others**, decided on 22.12.2014 (Annexure P-4), preferably within a period of three months. It was ordered that the petitioner may submit additional documents, if so warranted, within a period of one month. Accordingly, the petitioner submitted documents on 11.03.2015 to the Estate Officer, U.T. Administration, Chandigarh. But he was not informed regarding the fate of his claim. Therefore, he filed CWP No. 5581 of 2016 seeking enforcement of the aforesaid order dated 20.02.2015, which was disposed of vide order dated 22.03.2016 (Annexure P-9) giving one further opportunity to the respondents to comply with the order dated 20.02.2015 by 15.06.2016. Thereafter, vide letter dated 23.05.2016 (Annexure P-10), the respondents conveyed to the petitioner that his claim for allotment of flat was considered in terms of the order dated 22.12.2014 passed in **Dinesh Kumar's case** (supra) and the same was rejected by the Screening Committee on 06.10.2015. He was informed that his request for allotment of flat could not be considered as he was not enrolled in the voter list for the year 2004 to 2006, which is pre-requisite condition for the allotment of flat under the Scheme of 2006. It was also stated that the petitioner failed to submit any document as per order dated 22.12.2014 passed in **Dinesh Kumar's case** (supra). This letter dated 23.05.2016 has been challenged by the petitioner

by way of present petition.

3. Learned counsel for the petitioner argued that vide receipt dated 11.03.2015 (Annexure P-5), the petitioner submitted all the requisite documents to the respondents. On the basis of biometric survey done in the year 2006, the petitioner was issued a voter I.D. Card (Annexure P-7) on 10.02.2009. Therefore, it cannot be said that he was not enrolled in the voter list for the year 2004 to 2006. Hence, the respondents have wrongly rejected the claim of the petitioner on these grounds.

4. We have considered the submissions of learned counsel for the petitioner.

5. The petitioner had approached this court earlier by way of Civil Writ Petition No. 25904 of 2014 which was decided on 20.02.2015 directing the respondents to examine the claim of the petitioner in terms of judgment of this court in **Dinesh Kumar's case** (supra). The petitioner was granted opportunity to furnish additional documents to substantiate his claim. The petitioner has not furnished the details of the documents submitted by him in the receipt dated 11.03.2015 (Annexure P-5). The petitioner having failed to adduce any cogent and material evidence regarding voter in the electoral rolls of 2004 to 2006, the respondents had rejected the claim of the petitioner vide Annexure P-10 with the following observations :-

“Your claim was heard by the Screening Committee and the same was rejected on 06.10.2005. Your request for the allotment of small flats cannot be considered as your name is not enrolled in the voter lists for the year 2004 to 2006 which is pre-requisite condition for the allotment of flat under the aforesaid scheme. You

also fails to submit any document as per order dated 22.12.2014 of Hon'ble Punjab & Haryana High Court passed in CWP No. 2317 of 2014 titled Dinesh Kumar and Others Vs. Chandigarh Administration and notification dated 08.07.2015 issued by Chandigarh Administration.”

6. The petitioner in the writ petition relying upon Annexures P-12 and P-13 has claimed that he was voter in the electoral rolls for the year 2004 to 2006. The letter Annexure P-12 is dated 17.06.2016 and the petitioner had failed to produce the relevant material at the appropriate time to enable the respondents to check its authenticity and validity in accordance with law. Moreover, the petitioner was afforded an opportunity to submit additional documents, if so warranted, within one month from 20.02.2015 while deciding the CWP No. 25904 of 2014 filed by him. The petitioner ought to have produced cogent and convincing material before the appropriate authority at the relevant occasion. The petitioner having failed to avail the opportunity cannot time and again seek indulgence for filling the gaps in the evidence to substantiate his claim.

7. For the reasons recorded above, we are of the opinion that the respondents have not erred in rejecting the claim of the petitioner.

8. Dismissed.

**(RAMENDRA JAIN)
JUDGE**

October 05, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes