

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 22161 of 2016

Date of Decision: 24.10.2016

Raj Kumar

....Petitioner.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. Aman Dhir, 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 regularize the allotment of House No. 23, HIG Dhangu Road, Pathankot, Tehsil and District Pathankot in his favour in view of the judgment dated 15.2.2011 (Annexure P-11) passed by this Court and the instructions dated 29.11.2011 (Annexure P-13) issued by the State Government. Further, a direction has been sought to the respondents to take action on the representation dated 10.9.2015 (Annexure P-8) moved by the petitioner.

2. The petitioner is a head of a terrorist affected family and migrated from village Babahali on 1.4.1988 and re-settled in Pathankot. He has been issued an identity card (Annexure P-1) of internal migrants bearing Registration No. 366-G by the Sub Divisional Magistrate,

Pathankot. Government of Punjab had issued a policy dated 15.10.1985 (Annexure P-2) and the instruction dated 18.4.1988 (Annexure P-3) for the rehabilitation of the terrorist affected families in the State of Punjab. The petitioner made a representation dated 26.3.1999 to respondent No.2 for the allotment of a house in terrorist victim category at Pathankot. He was given possession of House No. 24, HIG, Dhangu Road, Pathankot vide order dated 14.6.1999 (Annexure P-4). Thereafter, the petitioner received the eviction order dated 27.5.2009 (Annexure P-5) under Section 46 (2) of the Punjab Regional and Town Planning and Development Act, 1955 (in short “the Act”) from respondent No.2 wherein it was mentioned that he had been issued show cause notice vide letter dated 6.8.2007 under Section 46(1) of the Act to remove the unauthorized possession on the house. The petitioner challenged the said order by filing a civil suit. The trial court vide judgment and decree dated 4.12.2014 (Annexure P-6) dismissed the said civil suit. The appeal filed against the said judgment and decree, Annexure P-6, was also dismissed by the lower appellate court vide judgment and decree dated 1.12.2015 (Annexure P-7). The petitioner filed an appeal against the judgments and decrees (Annexures P-6 and P-7, respectively) in this Court which is pending adjudication. The petitioner moved a representation dated 10.9.2015 (Annexure P-8) to respondent No.2 for the allotment of house in his possession as per the policy decision. The Estate Officer vide letter dated 28.10.2015 (Annexure P-9) informed the petitioner that no decision can be taken on his representation due to pendency of the court case. The petitioner vide letter dated 15.2.2016 sought information under the Right to Information Act, 2005 which was supplied vide letter dated 29.4.2016 (Annexure P-10). This Court vide order dated 15.2.2011 (Annexure P-11)

passed in CWP No. 18227 of 2010 directed the State Government to regularize the unauthorized possession of the eligible riot/terrorist victim families. In a similar matter, this Court vide order dated 18.7.2012 (Annexure P-12) passed in CWP No. 6008 of 2012 directed the Deputy Commissioner, Amritsar to determine the status of the petitioner therein in the light of the observations made herein above at the earliest and thereafter, refer the case to the Amritsar Development Authority if so required, for regularization of the allotment of the flat or any other flat, if acceptable to the petitioner. Further, the Government of Punjab has accepted the decisions taken in the meeting held on 29.11.2011 with regard to the demands of the terrorist affected persons. Vide instructions dated 29.11.2011 (Annexure P-13), it has been decided that those terrorist affected persons who are in unauthorized possession of the houses/booths, they would be allotted the said houses on the rates prevailing in the year 1991-92. The petitioner has sought regularization of House No.24, Dhangu Road, Pathankot in terms of the instructions, Annexure P-13, 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 moved a representation dated 10.9.2015 (Annexure P-8) to respondent No.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 representation dated 10.9.2015 (Annexure P-8), in accordance with law by passing a speaking order and after affording an

opportunity of hearing to the petitioner within a period of six months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

October 24, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No