

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

CWP No.10372 of 2016

Date of Decision: 04.07.2017

Rattan Lal Matoo

---Petitioner

Versus

The Union Territory, Chandigarh and others

----Respondents

Coram: **HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE**
 HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. H.S. Bhullar, Advocate
 for the petitioner.

 Mr. Harkesh Manuja, Advocate
 for respondents No.1 and 2.

 Ms. Deepali Puri, Advocate
 for respondent No.3.

S.J. VAZIFDAR, CHIEF JUSTICE

The petitioner has challenged the decision dated 28.03.2013 (Annexure P-4) rejecting the request for condonation of delay in exercising the option for allotment of a booth and a decision dated 10.04.2013 (Annexure P-5) withdrawing the letter of intent dated 30.07.2010 to allot the booth to the petitioner.

The petitioner is admittedly a Kashmiri Pandit. He was unfortunately uprooted on account of the unrest in or about 1991. The U.T., Chandigarh introduced a scheme for allotment of built up booths to such Kashmiri migrants. The petitioner made an application on 23.06.2010 for allotment of a built up booth under the aforesaid scheme. On 30.07.2010, the respondents issued a Memorandum, which noted that there was a draw of lots for allotment of booths in Sector 11, Chandigarh as per scheme and that it was intended to allot the petitioner a booth on the terms and conditions mentioned therein. The allotment of the booth was on a lease hold basis for a period of 33 years renewable for two like periods of 33 years each. The petitioner was

required to deposit a sum of ₹11,740/- within a period of 30 days from the date of issue of the letter of allotment failing which the offer was deemed to have been withdrawn. The petitioner did not make the payment and accept the lease within the period of 30 days stipulated in the Memorandum. In view thereof, the respondent cancelled the letter of allotment.

In the facts and circumstances of the case and keeping in mind the nature and purpose of the scheme, we are inclined to allow the petition. Only a few days before the receipt of the letter of allotment dated 30.07.2010 the petitioner visited his mother at Jalandhar, where he unfortunately fell ill. He was admitted to Chawla Heart Care Centre on 06.07.2010 and was discharged on 08.07.2010 as is evident from his discharge certificate, which described the illness as sudden weakness in right upper and lower limb with disability to move slurring of speech with deviation of face towards left for 4 hours. Thereafter, he was treated at the PGIMER, Chandigarh on several occasions as is evident from his Out Patient Cards dated 24.07.2010, 10.11.2010, 02.04.2011 and 19.04.2013.

It is true that the petitioner did not undergo any surgery. He, however, had fallen ill and was undergoing treatment. It is possible that on account thereof, he was unable to assess the terms and conditions of the letter of allotment properly. He offered payment on 12.07.2012, after a delay of 6 months. The impugned orders have not considered the aforesaid facts at all.

The respondents have the power to condone the delay. It was so held by a judgment and order of a Division Bench of this Court dated 19.12.2011 passed in CWP No.1193 of 2009 titled '*Balbir Kaur Vs. Estate Officer, Union Territory, Chandigarh and another*'. Even in that case, the

delay of 160 days was condoned keeping in view the nature of the scheme and benefit intended to such migrants. The impugned order rejecting the application for condonation of delay infact refers to this judgment but notes that the petition for special leave to appeal had been filed. It is fairly stated on behalf of the respondents that the petition for special leave to appeal has been dismissed by the Hon'ble Supreme Court.

In these facts and circumstances, in our view a practical and sympathetic view ought to have been taken especially considering the nature of the scheme and the petitioner having undergone medical treatment during this period.

The petition is allowed and the impugned orders dated 28.03.2013 (Annexure P-4) and 10.04.2013 (Annexure P-5) are, therefore, set aside. The petitioner shall make the payment of the entire sum that may be demanded by the respondent in writing within four weeks of the receipt thereof. The respondents shall inform the petitioner the amount due and payable by him in writing latest by 31.07.2017. The petitioner undertakes to use the booth himself and not to transfer the lease without prior permission of the respondents. There shall be no order as to costs.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

04.07.2017
atul

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No