

HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-15130-2016

Date of Decision: April 17, 2017

Lakhwinder Singh

.....Petitioner

Versus

Union Territory, Chandigarh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

- |    |                                                                       |         |
|----|-----------------------------------------------------------------------|---------|
| 1. | To be referred to the Reporters or not?                               | Yes/No  |
| 2. | Whether the judgment should be reported in the Digest?                | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No  |

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Present: Mr.Sanjeev Patiyal, Advocate  
for the petitioner.

Mr.Vivek Chauhan, Advocate for the respondent-UT.

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**SURYA KANT, J.**

The petitioner seeks quashing of Memo, dated 02.05.2016 (Annexure P-13) whereby his claim for allotment of 'One room tenement' under the Chandigarh Small Flats Scheme, 2006 (for brevity, 'the 2006 Scheme') has been rejected on the ground that his 'name is not appeared in the Bio-metric survey which is a pre-requisite condition for allotment.....'

[2] The Chandigarh Administration vide notification dated November 06, 2006 (Annexure P-1) notified the 'Chandigarh Small Flats Scheme, 2006' whereunder it was decided to provide hygienic living status with basic amenities consisting of one room tenement to the *jhuggi* dwellers subject to fulfillment of eligibility conditions prescribed in the 2006

Scheme. Clause 6 of the 2006 Scheme deals with the eligibility and it reads as follows:-

“Eligibility and Mode of Allotment

6.(a) With respect to every block of a Notified Colony selected for clearance, allotment of a flat shall be made as under:-

(i) All persons whose names appear in the biometric survey and voter list as on 1.1.2006 shall be eligible for allotment of a flat on license basis. The name of the person should also appear in the latest voter list of the year in which allotment is to be made.

(ii) A person who owns more than one habitation in any of the Notified 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 flat under this scheme

(iii) A family unit shall be entitled to one flat, provided it fulfils all the conditions under this Scheme.

(b) All allotments of flats under this scheme will be on monthly license fee basis consisting of One Room Flat in a multi-story building.”

[emphasis applied]

[3] The question which falls for consideration is whether the petitioner is eligible for allotment of a tenement under 2006 Scheme?

[4] The case of the petitioner is that he has been residing in Jhuggi No.25, Kuldeep Colony, Kajheri, Chandigarh from the last more than 20 years. To substantiate his plea that he has been residing in the above-stated jhuggi much before the 2006 Scheme came into force, the petitioner has placed on record the voter identity card, dated 31.03.1998 wherein he is

reported to be 30 years old as on 01.01.1997 and his address given is '25,

Kuldeep Colony, Kajheri, Chandigarh'. He has also placed on record a copy of the voter list of 2005 in which again he is shown to be a resident of the same address. The subsequent voter lists are also on record. In the light of these documents it can be safely inferred that the petitioner is a bona fide resident of one of the jhuggi colonies since the year 1997-98 or may be prior thereto.

[5] As regard to the 2<sup>nd</sup> eligibility condition, namely, that the petitioner's name must have appeared in the Bio-metric survey, it may be mentioned that the Bio-metric survey was conducted in March 2006. The petitioner was not found residing in the above-mentioned jhuggi on the day of Bio-metric survey. The petitioner's explanation in this regard is that he lost his mother, late Smt.Amarjit Kaur on 27.02.2006 and he had gone to his native village Kalanaur, Tehsil and District Gurdaspur, where she died. To support this plea, he has placed on record the Death Certificate of his mother (Annexure P-3). The petitioner could not approach the authorities soon thereafter for which he has further explained that he unfortunately met with an accident and remained hospitalised in Government Medical College Hospital at Jammu which is near to his home District. The above mentioned Government Medical College has issued the Certificate (Annexure P-4 Colly) dated 29.06.2006 to the effect that the petitioner was admitted in that hospital on 11.05.2006 as a case of head injury with multiple fractures. The petitioner has unfortunately become physically disabled after the said accident. He is present in Court with the assistance of his family members and his plea regarding meeting with the accident or having remained bed-ridden for a long appears to be genuine and justified.

We have therefore no reason to doubt the genuineness of the Medical Certificates issued by a Premier Govt.Institute.

[6] Allotment claim of the petitioner has admittedly been rejected only on the ground that he was not found present in jhuggi at the time of Bio-metric survey. Such like solitary reason for rejecting the allotment claim has not found favour with this Court in CWP No.2317 of 2014 decided on 22.12.2014 (**Dinesh Kumar and others vs Union Territory, Chandigarh and others**) and it was directed that the authorities shall consider other documents towards proof of residence issued under different Statutes such as Motor Vehicles Act, 1988 and the Passport Act, 1967 etc..

[7] The other objection taken by the respondent-authorities is that the petitioner had earlier approached the Permanent Lok Adalat(Public Utilities Services), Union Territory, Chandigarh, and his claim was rejected by that Forum.

[8] We have gone through the order of the Permanent Lok Adalat which rejected the petitioner's claim only on the ground that during the Bio-metric survey he was not found present and one Gurcharan Singh son of Jagir Singh was found living in the said jhuggi. The petitioner has from the very beginning taken a plea that Gurcharan Singh son of Jagir Singh was his relative and he had asked him to stay in the Jhuggi during the period he had gone to attend the last rites of his mother. In this view of the matter, we are satisfied that rejection of petitioner's claim by the Permanent Lok Adalat cannot cause any impediment, if his claim is otherwise acceptable.

[9] In view of the fact that petitioner's absence at the time of Bio-metric survey was for a reason beyond his control and such reason was

totally genuine and bona fide, we are of the view that petitioner's claim cannot be allowed to be rejected only on the ground of his absence during the Bio-metric survey. Suffice to observe that if on the basis of other documentary proof the petitioner is able to establish his eligibility, his Bio-metric impression can be taken by the authorities at any time before actual allotment.

[10] In the light of the above discussion, we allow this writ petition; set aside the Memo, dated 02.05.2016 (Annexure P-13) and direct the authorities to reconsider the petitioner's claim for allotment in the light of the observations made hereinabove and keeping in view the documents referred to above. The authorities, however, shall be at liberty to ascertain the genuineness of the documents relied upon by the petitioner. The appropriate order shall be passed within a period of three months from the date of receipt of a certified copy of this order.

**( SURYA KANT )**  
**JUDGE**

**April 17, 2017**  
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**( SUDIP AHLUWALIA )**  
**JUDGE**

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|----|------------------------------------|---------------|
| 1. | <b>Whether speaking/reasoned ?</b> | <b>Yes/No</b> |
| 2. | <b>Whether reportable ?</b>        | <b>Yes/No</b> |