

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.6656 of 2017

Date of Decision: March 30, 2017

Subhash Chand and others

.....Petitioners

versus

Union Territory, Chandigarh Administration and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Deepak Thapar, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

The petitioners' case is that they were *jhuggi* dwellers at Village Palsora in Union Territory of Chandigarh. With a view to rehabilitate the Economically Weaker Sections of the Society especially those living in the slum areas, Chandigarh Administration notified the "Licensing of Tenements and Sites and Services in Chandigarh Scheme, 1979". Initially, under that Scheme, all persons who were *bonafidely* residing in Labour Colonies prior to 01.01.1978 were considered eligible for allotment of dwelling units. The eligibility clause was thereafter amended on 07.11.2000 according to which all those *bonafide* residents who were settled in Palsora Colony from the year 1990 till the date of election of Municipal Corporation, Chandigarh held on 08.12.1996, were also held eligible for allotment of alternative accommodation on demolition of their *jhuggies*.

The petitioners' *jhuggies* in Palsora Colony are said to have been demolished on 25/26.06.2003.

It is alleged that since then the petitioners are running from pillar to post for allotment of alternative accommodation but the Estate

Officer vide stereo type orders, which are under challenge, has turned down

the petitioners' claim on the ground that their names do not figure in the voter list as on 08.12.1996.

The petitioners have laid challenge to the orders of the Estate Officer, besides questioning the amended eligibility requiring their names to be in the voter list as on 08.12.1996.

We have heard learned counsel for the petitioners and gone through the records.

Since the cut-off date and eligibility conditions as notified on 07.11.2000 were/are meant to make the Scheme more beneficial and to extend its benefits even to those *bonafide* residents who came and settled in Chandigarh after 01.01.1978, it is difficult to hold that such clause suffers from the vice of arbitrariness. The petitioners' contention to direct for further amendment of the cut-off date and post-pone such date of eligibility to 25/26.06.2003, we are afraid a writ court won't re-write the policy-decision. Such a matter entails fresh policy decision, which can only be taken by the policy-makers.

That apart, 1979 Scheme has since been repealed and therefore, the direction to re-consider the change in cut-off date would eventually serve no purpose. It has come on record that subsequently, Chandigarh Administration has notified yet another Scheme known as 'Chandigarh Small Flats Scheme, 2006'. Under the new Scheme, residents of *jhuggi* colonies who were found residing as per the biometrics survey and whose names are mentioned in the voter list as on 01.01.2006 are entitled to be considered for allotment of one room tenement. Further, the condition of determining the *bonafide* resident's status through biometrics survey alone has further been liberalized by this Court in Dinesh Kumar and others

versus Union Territory, Chandigarh and others, 2015(4) RCR (Civil) 54.

We see no reason as to why the claim of the petitioners be not considered under the 2006 Scheme. The instant writ petition is accordingly disposed of with liberty to the petitioners to put-up their claim for allotment of one room tenement under the 2006 Scheme, besides further liberty to them to challenge the orders passed by the Estate Officer, U.T. Chandigarh, before the superior authorities and seek appropriate relief. As and when the petitioners would submit such claim, the Prescribed Authority or the Appellate and Revisional Authorities, as the case may be, are directed to consider and decide the same on case to case basis, within a period of four months from the date of receipt of the claim.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

March 30, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No