

Gurbax Singh
2018.04.21 13:05

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

**CWP No. 17968 of 2016
Date of decision: 06.03.2018**

Charanjit Lal

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Ashwani Prashar, Advocate, for the petitioner.
Mr. Jagmohan S.Ghuman, DAG, Punjab.
Mr. Harit Sharma, Advocate for respondents No. 2 and 3.

Ajay Kumar Mittal,J.

1. The petitioner through the instant petition under Articles 226/227 of the Constitution of India prays for quashing the corrigendum dated 29.12.2015, Annexure P.6 and for issuance of a writ in the nature of mandamus to the respondents to allot a plot measuring 401-500 square yards to him under the relevant category.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. On 5.12.2015, a scheme was opened by respondent No.2-The Greater Ludhiana Area Development Authority (GLADA) inviting applications for allotment of 123 free hold residential plots at Sector 38 (72 plots) and Dugri Phase II and III, Bye pass (total 51 plots), Ludhiana. As per the brochure, Annexure P.1, there was reservation of 4% of the plots for serving and retired Defence Personnel and

Paramilitary Forces (including war widows of these categories) in defence category under Code 'C'. Thus, out of total 51 plots for Dugri Phase II and III, Bye pass Ludhiana, two plots measuring 401-500 square yards were kept reserved for defence personnel. The petitioner is an ex-serviceman. He retired from Eleven Guard regiment of Indian Army. He was enrolled on 20.1.1969 and discharged on 1.2.1984. The petitioner applied for 401-500 square yards category plot vide application No.2401 on 4.1.2016 by paying ₹ 10 lacs to GLADA through Punjab National Bank, Model Town Branch, Ludhiana for which an interest of ₹ 48,971/- was paid by him. The draw of lots was to be held on 15.3.2016 but the same was held on 15.2.2016 i.e. one month in advance. The petitioner was shown at No.1 in the waiting list and only one plot had been allotted to one Shri Sahib Singh son of Shri Sarain Singh under defence personnel category. The petitioner got issued a legal notice dated 9.3.2016 to the respondents alongwith others wherein it was mentioned that the GLADA illegally and unlawfully reduced the reservation of plots from 2 to 1 and there was no such information on the website of GLADA. It was thus prayed by the petitioner that a plot in the aforesaid category be allotted to him. In response to the legal notice, a letter dated 31.3.2016 was received by the counsel for the petitioner in which it had been mentioned that in the printed brochure under reserved category C, number of plots were wrongly printed 2 instead of one and for that corrigendum was published in different newspapers on 29.12.2015. The petitioner asserts that the amount deposited by him is still lying with GLADA. According to the petitioner, as per brochure, 4% plots were reserved for defence personnel category. No plot for defence category was reserved under 501-650 square yards (12 plots), 301-400 square yards (5 plots) and 201-300 square yards (6 plots). If separately calculated, 4% of 12 will be less than one, similarly for five numbers of plots

also, 4% will be less than one and 4% of 6 numbers of plots is also less than one. Total number of plots for Dugri Phase II and III are 51 and 4% of 51 comes to more than 2. Thus, in any case, as per own reservation mentioned by GLADA, two plots were required to be given to defence category under 401-500 square yards size of plots. It was not a case of misprinting in the brochure but it was a case where for the reasons best known to respondents No.2 and 3, number of plots were reduced from 2 to 1. The petitioner asserts that for Sector 38 Samrala road, in the same brochure, 4% plots had been reserved for the same defence category and out of 52 plots of 250 square yards, 2 plots had been reserved for this very category and similarly out of 20 plots of 100 square yards, one plot had been reserved for this category. Even 4% of the total 72 plots comes to 2.88 and round figure is 3. Thus, proper reservation had been given to defence category in Sector 38 by GLADA. Thus, how and in what manner the GLADA reduced plots from 2 to 1 for Dugri Phase II and III under 401-500 square yards for defence personnel category could only be explained by them. Hence the instant petition by the petitioner.

3. A written statement has been filed on behalf of respondent Nos. 2 and 3 by Estate Officer, GLADA, Ludhiana wherein it has been inter alia stated that the petitioner had applied for allotment of a 401-500 square yards plot out of serving and retired defence personnel and paramilitary forces. 28 plots of the said size were available for allotment for defence category and the reservation was 4%. Therefore, 1.12 plots came to the share of defence category. As there was a mistake/misprinting in the brochure, therefore, the corrigendum was rightly issued on 29.12.2015 by the GLADA before the last date for submission of applications that the number of plots in this category be read as one instead of two. GLADA had given the reservation of plots size wise. Since the petitioner was not successful in the draw of lots and he was in

the waiting list, he could not be allotted any plot for the size of 401-500 square yards being in the waiting list as the successful candidate had already been allotted the plot. Further, according to the respondents, now no plot of the size in respect of the petitioner is available with GLADA for allotment. On these premises, prayer for dismissal of the petition has been made.

4. Learned counsel for the petitioner contended that respondent No.2 illegally and unlawfully reduced the reservation of plots from 2 to 1 and thus erred in not allotting the plot to the petitioner under the defence category.

5. Learned counsel for the respondents No.2 and 3 submitted that the reservation had been made category wise and the number of plots available in different categories had been specified. In other words, it was stated that the number of plots available for reserved category had been calculated category wise and the difference, if any under any category, where it could not be rounded off to the nearest full number of the plots, had been included in the general category. On 22.2.2018, learned counsel for respondent Nos. 2 and 3 prayed for time to file an affidavit in this regard.

6. We have heard learned counsel for the parties.

7. Undisputedly, on 5.12.2015, a scheme was opened by respondent No.2 inviting applications for allotment of 123 free hold residential plots at Sector 38 (total 72 plots) and Dugri Phase II and III, Bye pass (total 51 plots) Ludhiana. As per brochure, Annexure P.1, there was reservation of 4% of the plots for serving and retired defence personnel and paramilitary forces including war widows of these categories under defence category Code 'C'. Out of total 51 plots for Dugri Phase II and III, two plots measuring 401-500 square yards were kept reserved for defence personnel. The petitioner being an ex-serviceman applied for 401-500 square yards category plot. He

deposited the requisite earnest money. In the draw held on 15.2.2016, the petitioner was shown at No.1 in the waiting list and only one plot had been allotted to one Sahib Singh under the defence personnel category. The petitioner sent a legal notice dated 9.3.2016 to the respondents stating that the GLADA had illegally reduced the reservation from 2 to 1 and no information in this regard was given on the concerned website. In response to the legal notice, a letter dated 31.5.2016 was received by the counsel for the petitioner explaining that in the brochure under the reserved category C, number of plots was wrongly printed 2 instead of one and for that, corrigendum was published in the newspapers on 29.12.2015. An affidavit dated 5.3.2018 has been filed by the Estate Officer, GLADA stating that reservation in various categories had been made according to the category. For instance 15% plots had been reserved for Scheduled caste/Scheduled Tribe out of total of 28 plots in the size measuring 401-500 square yards which came to 4.2 and therefore, four plots by rounding off had been ascribed to that category. Similarly, 1% of 28 plots was reserved for 100% disabled soldiers of Punjab domicile which when calculated came to be 0.28 and therefore, no plot had been allotted to that category. Thus, it was stated that first reservation wise number of plots were allotted to the reserved category and then the remaining number of plots were allotted to the general category. If under any category where after calculating it according to the reservation, the number could not be rounded off to the nearest full number of plots, then the same had been included in the general category. In the present case, as mentioned above, in the brochure under the reserved category C, number of plots were wrongly printed 2 instead of one and for that, corrigendum was published in the newspapers on 29.12.2015. Even on perusal of brochure Annexure P.1 under Dugri Phase II and III Bypass, Ludhiana under 401-500 square yards category, the total number of plots

of all categories comes to 28. Thus, by wrongly printing 2 instead of one, under the defence category, the total number of plots of all categories comes to 29 whereas the correct figure is 28. An affidavit in this regard has also been filed by the Estate Officer, GLADA explaining the mistake. The clarification in the form of chart as given in the affidavit dated 05.03.2018 reads thus:-

Size of Plot 401 to 500 sq. yards and total number of plots 28			
Category Code	Category	Reservation (%)	Number of plots
A	General	54%	14 plots
B	Scheduled Caste/Scheduled Tribe	15%	4.2 and therefore 4 plots have been allotted
C	Serving and Retired Defence Personnel & Paramilitary Forces (including war Windows of these categories)	4%	2 plots which was later corrected in the corrigendum as 1 plot
D	Legal Heirs of Army/Paramilitary Forces, Punjab Police Personnel killed in action (war on law & order duty)	2% ^s	1 plot
E	100% Disabled Soldiers of Punjab Domicile	1%	0.28 and therefore no plot
F	Riot affected and terrorist affected families	5%	1.4 and therefore 1 plot
G	Persons with Disabilities i) Disabled Persons/physically handicapped/mentally retarded 1% ii) Disabled Persons/visually-1% iii) Disabled Persons/Deaf and Dumb-1%	3%	0.84 and therefore, 1 plot
H	Freedom Fighters	2%	1 plot
I	Sports person as per detail in brochure	2%	1 plot
J	Gallantry award winners from Defence services/Paramilitary forces who have distinguished themselves by acts of bravery and	2%	1 plot

	valour in the defence of our country both in war and peace time and Punjab Police Personnel awarded with President/Police medals for Gallantry		
K	Punjabis/Persons of Punjab origin who are settled abroad	10%	2.8 and thus rounded off to 3 plots
	Total for all categories (excepting general category) comes to be 14		
	Therefore out of total plots 28,14 have been served and the rest would fall in general category		

Learned counsel for the petitioner has not been able to produce any material on record to substantiate his claim or point out any error in the approach adopted by the respondent-GLADA.

8. In view of the above, we do not find any merit in the writ petition and the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

March 06, 2018
'gs'

(Anupinder Singh Grewal)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes