

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.17135 of 2018

DATE OF DECISION : July 16, 2018

Estate Officer, Union Territory, Chandigarh

...Petitioner

Vs.

Sumita Devi and Anr.

...Respondents

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

Present: Mr. Jaivir Chandail, Advocate, for the Petitioner.

SUDIP AHLUWALIA, J.

The Chandigarh Administration, after conducting a Bio-Metric Survey in the month of March, 2006, identified 18 Colonies, which had come up unauthorisedly and illegally by encroaching upon the public lands without having any basic amenities and facilities. Consequently, vide Notification dated 06.11.2006 (Annexure P-1), a Scheme by the name of 'Chandigarh Small Flat Scheme, 2006' (hereinafter referred to as 'Scheme of 2006') for allotment of residential one room flats on monthly license basis was notified. In pursuance thereof, Respondent No.1 submitted an application (Annexure P-3) for allotment of a flat. After examining the application, it was found by the Screening Committee that the said Respondent was not a registered Voter for the relevant period between 2006 and 2013 on account of which, she was held ineligible for allotment and her

application was rejected. Being aggrieved, Respondent No.1 filed an appeal before the Appellate Authority under Clause 17 of the Scheme of 2006, wherein it was urged that she was liable to be considered eligible for allotment of alternate site in lieu of Jhuggi No.1093, Block-K, Colony No.5 Sector-45, Chandigarh, since her husband Madan Kumar who had expired in 2009, was in fact a registered Voter at the relevant time. The appeal was allowed by the Appellate Authority after it was found that Bio-Metric Survey required to be conducted did exist in the name of deceased husband of Respondent No.1, and even name of Respondent No.1 herself was covered in the Bio-Metric Survey, on account of which, she would have been entitled for allotment being the family member of the eligible person, namely Madan Kumar, who had expired in 2009 before applying for allotment.

2. We find no infirmity or impropriety in the decision of Appellate Authority (Respondent No.2). A number of decisions in this regard in virtually identical situation have invariably gone in favour of the surviving spouses of the deceased persons, who were otherwise eligible for allotment of a flat covered by the concerned Scheme. (*See LPA No.792 of 2016 (O&M) Estate Officer, Union Territory, Chandigarh Vs. Shobhawati and another; LPA No.817 of 2015 (O&M) Estate Officer, U.T.Chandigarh Vs. The Permanent Lok Adalat and another; CWP No.14507 of 2012 Santosh Kumar and another Vs. Chandigarh Housing Board and others and CWP No.25595 of 2015 Estate Officer, Union Territory Vs. Shobhawati and another*). In fact, the Judgments in LPA No.817 of 2015 and CWP

No.14507 of 2012 were passed by one of us (Surya Kant, J.) in the concerned Division Benches.

3. We find no reason to take any different view in the present case since admittedly, husband of Respondent No.1 had participated in the Bio-Metric Survey, which is one of the principle modes to establish a recognized resident to enable him/her to the benefits of the Scheme. In the said Survey, Respondent No.1 was duly recorded as wife of the said deceased Madan Kumar and found to be residing with him, on account of which, even her name was referred to in the Bio-Metric Survey. As such, merely because her name does not find in the Voter List for the relevant years, it cannot be held that she is not a recognized resident under the Scheme of 2006, particularly when her deceased husband who was alive at the relevant time, was found to be a registered voter and therefore, eligible for such allotment, but who unfortunately expired before submitting his formal application.

4. We therefore, find no perversity in the Order passed by the Appellate Authority (Respondent No.2) in favour of Respondent No.1 nor any merit in the present Writ Petition, which is therefore, dismissed.

**(SURYA KANT)
JUDGE**

**(SUDIP AHLUWALIA)
JUDGE**

**July 16, 2018
AS**

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |