

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17148 of 2018

Date of Decision: 16.07.2018

Estate Officer, Union Territory,
Chandigarh

... Petitioner

Versus

Shahid Ahmed @ Sayeed Ahmed
and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jaivir S.Chandail, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. This petition has been filed by the Estate Officer, Union Territory, Chandigarh praying for setting aside the order passed by the Permanent Lok Adalat (Public Utility Services), Union Territory, Chandigarh in Application No.487 of 2013 passed on January 10, 2014 and the review order dated February 22, 2018.

2. Apart from merits, this petition has been filed after four and half years of the order which does not redound to the credit of the UT Administration to rake up a matter of allotment of a one room tenement for re-settling persons residing in colonies in Chandigarh including colony No.5 in the present case. Apart from the delay and the attempt to overcome it by reference to the merits of the case, the contention of Mr. Chandail on behalf of the Administration calls upon this Court to interpret a provision in the Chandigarh Administration notification dated November 09, 2009 amending sub-clause (i) of Clause 6 (a) which makes an additional

allowance to allottees to satisfy the criteria for allotment to claimants whose names are on the voters list of the colony. Before I come to the proviso, an undisputed fact has to be noticed inasmuch as in the bio-metric survey the name of the claimant Shahid Ahmed s/o Rashid Ahmed was found. His residential presence in the colony on the date of bio-metric survey is beyond doubt. He therefore qualifies the first limb of the criteria. Coming to the proviso it would be apt to reproduce the same:-

“Provided that any person whose name appeared in the biometric survey but does not appear in the voter list as on 1.1.2006 shall also be eligible for allotment of flat under the scheme if his name appears in the voter list as on 1.1.2004 or 1.1.2005 and 1.1.2007 or 1.1.2008.”

3. The amendment defines Recognized Resident. In case, person's name does not appear in the voter list of January 01, 2006 but is recorded as a voter as on January 01, 2004 and January 01, 2005 and January 01, 2007 or January 01, 2008 such a person is to be considered eligible.

4. Mr. Chandail argues with vigour that the use of the word “and” means that such Recognized Resident's name must appear in the voter list not only on January 01, 2004 and on January 01, 2005 but also on January 01, 2007 and January 01, 2008 in two separate and distinct parts. The factual canvass in which the argument is raised is that the claimant Shahid Ahmed's name did not find mention in the voter list either in 2004, 2005 or 2006 and, thus, he was not a voter and does not satisfy the second limb of the criterion. It was respondent No.1's son Shahid whose name was on the voters list but he was not an applicant. The claimant was Shahid Ahmed son of Rashid Ahmed, while Shahid Ahmed's son is also named Shahid but son of Shahid Ahmed. His son was major and it was his name which was

entered in the voter list of 2004 and this is the mistake the Permanent Lok Adalat has made by mixing up the identities.

5. Mr. Chandail refers to a Division Bench judgment of this Court in CWP No.2317 of 2014 decided on December 22, 2014 in case title *Dinesh Kumar and others v. Union Territory, Chandigarh and others* where the same proviso fell for consideration. The Bench held that “the condition in the Scheme of allotment in respect of names appearing in the Bio-metric survey and in the voter list of two years prior to such survey and/or two years later cannot be said to be arbitrary, unjust & irrational”. Even the Bench noted the words “and/or” together and, therefore, the decision cannot be said pat on the point on whether the word “and” or the word “or” will prevail; one conjunctive the other disjunctive. This is qualified by the words used by the Bench “prior” and “later”. This interpretation helps the respondent No.1 in this case when it is disjunctive to conclude that Shahid Ahmed s/o Rashid Ahmed-respondent-petitioner's before the PLA his name figured in the voter list as on January 01, 2007. Though the Permanent Lok Adalat has not articulated the core issue but it means as much i the setting of the proviso inserted in the notification dated November 09, 2009 to be read into clause 6 (a) (i). I would add that the name of the son of respondent No.1 was entered in the voter list of January 01, 2004 and, therefore, it is in continuity of the family unit with common interest.

6. For these reasons, I have no reason to tinker with the order of the Permanent Lok Adalat, Chandigarh and the orders passed in review dated February 22, 2018 and would uphold it as in addition to the reasons above, it does substantial justice. That apart the petition deserves to be

dismissed by reason of inordinate delay and laches in approaching court after four and half years years of the impugned order.

7. In the upshot, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

16.07.2018
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Whether speaking/reasoned	Yes
Whether reportable	Yes