

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

**CWP No.10101 of 2018
Date of decision: 28.08.2019**

Chetna Srivastava

..Petitioner

Versus

**Greater Mohali Area Development Authority,
GMADA and another**

..Respondents

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. Jatinder Nagpal, Advocate
for the petitioner.

Mr. Rupinder Khosla, Sr. Advocate with
Mr. Raj Partap Singh Brar, Advocate
for the respondents.

Daya Chaudhary, J.

Petitioner, namely, Chetan Srivastava has approached this Court by way of filing the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned order dated 23.07.2012 (Annexure P-6), whereby the earmarked plot allotted to the petitioner was cancelled by the Discrepancy Committee of the respondent authorities. A further prayer has also been made for direction to the respondent-authorities to allot the plot to the petitioner as per her entitlement and the policy applicable.

Briefly, the facts of the case as made out in the present writ petition are that the father of the petitioner, namely, Late Sh. B.N. Srivastava, who was working as Senior Engineer in Swaraj Foundry Division at District Ropar. He was killed in terrorist attack on 22.03.1991.

He was survived by his mother-Smt. Saraswati, wife-Kanak Lata and two daughters. Death certificate of father of the petitioner has been annexed as Annexure P-1 with this petition. In the month of September, 2011, the respondent-authorities floated a scheme for allotment of plots under the name and style of Eco City, Phase 1 to the general public as well as to the reserved categories as specified by the respondents in their application-cum-booking form. The scheme was opened on 21.09.2011 to 21.10.2011. Out of total 200 plots, there were 10 plots for the families of riot victims/terrorist victim. The price of the plot was fixed at ₹34,00,000/- and earnest money to the tune of ₹3,40,000/- was fixed. The petitioner being daughter of a person, who was killed in terrorist attack, applied for 200 square yards plot for residential purpose. Vide letter dated 02.12.2011, the petitioner was informed that she was successful in the draw held on 28.11.2011 and was allotted plot No.24 in Eco City Draw, Category R in Block No.G, Street S-6 at SAS Nagar, Mohali. The petitioner supplied all the documents i.e. Birth Certificate, Voter ID Card, Driving Licence, Red Card Category R along with attested affidavit from the members of her family. She also deposited ₹6,80,000/- towards allotment in addition to earnest money of ₹3,40,000/-, which was already deposited. The petitioner was asked to appear before the office of Additional Chief Administrator along with original documents on 29.05.2012 and she appeared before the concerned authority and submitted the documents. She was informed that the decision would be communicated to her.

The petitioner received letter dated 23.07.2012 issued by the Estate Officer, GMADA, SAS Nagar (Respondent No.2) stating therein that

the Discrepancy Committee has decided to give the benefit of reservation to the residents of Punjab only and the petitioner being not resident of Punjab, the plot wrongly allotted to her has been cancelled. The amount deposited by the petitioner was ordered to be refunded after deduction of ₹6800/-.

Learned counsel for the petitioner submits that the petitioner approached State Consumer Disputes Redressal Commission, Punjab, Chandigarh by filing a consumer complaint, which was dismissed in view of provisions of Section 174 of the Punjab Regional and Town Planning and Development Act, 1995 (hereinafter called as 'the Act'). The reason of dismissal of complaint was that the petitioner failed to establish her residence of Chandigarh for the last 5 years before opening the scheme. Learned counsel further submits that Chandigarh is a Union Territory and also the capital of State of Punjab. She fulfills the eligibility criteria. Learned counsel also submits that all the relevant/required documents were furnished and the petitioner was successful in the draw but still her claim has been rejected.

Learned senior counsel for the respondents has strongly opposed the submissions made by learned counsel for the petitioner. However, he has not disputed regarding deposit of amount and the eligibility of the petitioner. Learned senior counsel has also raised a preliminary objection that the plot earmarked to the petitioner was cancelled by the Estate Officer, GMADA on 23.07.2012 and the petitioner was at liberty to avail the remedy of statutory appeal and revision under Section 45 of the Act. Instead of availing said remedy, the petitioner filed consumer complaint. The claim of the petitioner was rejected by the Chief

Administrator, GMADA and said order has not been challenged within a period of three years of passing of order. The present writ petition is liable to be dismissed on the ground of delay and laches. Learned senior counsel also submits that the claim of the petitioner has already been rejected by the Chief Administrator, GMADA, which was based on judgment rendered by this Court in **CWP No.19363 of 2012** titled as **Faujia Siddiqui Shahid vs. State of Punjab and others** decided on 04.11.2014.

Heard arguments of learned counsel for the parties and we have also perused the impugned order as well as other documents available on the file.

The fact that the petitioner is daughter of terrorist killed person, is not disputed.

The petitioner applied in the scheme floated by the respondents in the name and style of Eco City, Phase 1 in the category of 'Terrorist Victim' and supplied all the documents required by the respondent-authorities. The petitioner was found eligible and allotment was made vide letter dated 02.12.2011. Not only documents were supplied but she deposited an amount of ₹6,80,000/- towards allotment in addition to the earnest money. Subsequently, her plot was cancelled only on the ground that she was not resident of State of Punjab but was resident of Chandigarh. Her consumer complaint was also dismissed on the ground that she failed to establish her residence in Chandigarh for the last 5 years before opening the scheme. However, on the basis of documents submitted by her, she was found to be resident of Chandigarh, which was clear from her educational certificates and bank record. She was also getting financial assistance/aid

from the Government of Punjab. It was also not mentioned in the form to be filled up that the applicant should be resident of State of Punjab. The petitioner was fulfilling the criteria as required in the application-cum-booking form, which was duly accepted and was also successful in draw of plots.

Accordingly, in view of the facts as mentioned above, the present petition is allowed and impugned order dated 23.07.2012 is set-aside with a direction to respondent-GMADA to allot the plot of same size of 200 square yards subject to payment of price of the plot as prevalent at that time. The necessary exercise be done within a period of two months from the date of receipt of certified copy of this order.

**(DAYA CHAUDHARY)
JUDGE**

**28.08.2019
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**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	Yes