

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.18309 of 2017
Date of Decision: 25.02.2020

Ashneet KaurPetitioner

Versus

State of Punjab and othersRespondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Piyush Kant Jain, Advocate,
for the petitioner.

Mr. Sahil Sharma, Deputy Advocate General, Punjab.

Mr. Harsh Aggarwal, Advocate,
for respondent Nos.2 to 5.

Mr. Mansur Ali, Advocate,
for respondent No.7.

KARAMJIT SINGH, J.

The petitioner has challenged, impugned order dated 16.09.2016 (Annexure P-16) passed by respondent No.3, by way of issuance of direction in the nature of certiorari with a further direction to the respondents to conduct fresh inquiry and take action in accordance with observations and directions given by the Hon'ble High Court in its order dated 12.04.2016 passed in CWP No.24401 of 2014.

In the petition, it was pleaded that Respondent No.2-The Greater Ludhiana Area Development Authority (hereinafter called, 'GLADA'), through its Chief Administrator invited applications for allotment of 247 free hold residential plots in Urban Estate, Dugri Road, Ludhiana, out of which one plot measuring 611.11 Square Yards was reserved for Physically Handicapped and

Blind. The last date for submission of the applications was 31.10.2006. The petitioner, being handicapped person, applied in that category. Draw of lots was held on 18.04.2007, in which respondent No.8-Rajesh Kumar was declared successful in Handicapped Category, while petitioner was placed at Serial No.1 in the waiting list of the said category. Accordingly, Plot No.5088, Phase II/III, Urban Estate, Dugri, Ludhiana, was allocated to respondent No.8-Rajesh Kumar. The said allottee, within five days of the allotment, executed General Power of Attorney in favour of Rakesh Kumar, husband of respondent No.7-Meenu Sood, who was property dealer. Subsequently, Rakesh Kumar transferred the said plot to respondent No.7-Meenu Sood. It is also the case of the petitioner that the original allottee, i.e., Rajesh Kumar was not having 40% disability and as such, he was ineligible to get plot under the category of Physically Handicapped, in the aforesaid scheme. Respondent No.4 illegally issued allotment letter dated 18.06.2007 in favour of respondent No.8-Rajesh Kumar, despite the fact that he was not covered under the category of Physically Handicapped and Blind. It was further pleaded that actually respondent No.8-Rajesh Kumar applied in the aforesaid category on behalf of respondent No.7-Meenu Sood, who admittedly does not fall within the reserved category of the Physically Handicapped and Blind. Otherwise, there was no need for respondent No.8 to execute General Power of Attorney regarding the allotted plot in favour of Rakesh Kumar, who subsequently transferred the same in the name of respondent No.7, who is his wife. All the said transactions, being sham, the petitioner made various representations to respondent No.2 to cancel the allotment of the plot in the name of respondent No.7/respondent No.8. Consequently, the allotment of plot in favour of

respondent No.8 was cancelled on 19.12.2007. The Civil Suit filed by respondent No.7-Meenu Sood was dismissed, vide judgment and decree dated 14.06.2012. Respondent No.7-Meenu Sood filed CWP No.25046 of 2013, which was disposed of on 15.11.2013. On the basis of the directions given by the Hon'ble High Court, respondent No.4 passed fresh order regarding cancellation of allotment in favour of respondent No.7/respondent No.8 and also directed that the said plot be allotted to the petitioner. Thereafter, respondent No.7 filed CWP No.1344 of 2014. The same was later on withdrawn by her, with permission to avail the alternative remedy of revision. The revision filed by respondent No.7 against the order of cancellation of allotment was dismissed, vide Annexure P-14 dated 14.11.2014. The same was challenged by respondent No.7 in CWP No.24401 of 2014, which was disposed of on 12.04.2016 with the following observations:-

“XXX XXX XXX XXX. The official respondents, however, shall consider the validity of the allotment in favour of the original allottee itself in the light of what we have stated, namely, as to whether the application for the original allotment was made by the original allottee for his own benefit or whether it was, in fact, made by him for and on behalf of the petitioner.”

On this, the matter was taken up by respondent No.3-Chief Administrator, GLADA, who passed impugned order (Annexure P-16) dated 16.09.2016, while ignoring the aforesaid directions given by the Hon'ble High Court. Respondent No.3 upheld the allotment of plot in favour of respondent No.8-Rajesh Kumar and its subsequent transfer and also directed the Estate Officer, GLADA to hand over the possession of the plot to respondent No.7.

Being not satisfied, the petitioner has filed this writ petition.

In response to the notice of motion, respondent Nos.2 to 5 filed joint written statement praying for dismissal of the writ petition. However, it was admitted that draw of lots was held on 18.04.2007, in which respondent No.8 was declared successful in handicapped category, while petitioner was placed at Serial No.1 in the waiting list. Subsequently, the said allottee transferred the allotted plot to some other person. The said transfer was valid.

Respondent No.7 filed separate written statement, in which it was pleaded that the impugned order is valid and legal. It was admitted that plot in question was allotted to Rajesh Kumar. The answering respondent is bonafide purchaser of the same. It was pleaded that the writ petition be dismissed. None appeared on behalf of respondent No.8 despite being duly served.

We have heard learned counsel for the petitioner and gone through the record.

It is not disputed that the petitioner and respondent No.8-Rajesh Kumar applied for the allotment of plot under the Handicapped and Blind category in the scheme floated by GLADA for allotment of 247 freehold residential plots in Urban Estate, Dugri Road, Ludhiana, out of which one plot was reserved for the aforesaid category. In the draw of lots dated 18.04.2007. Respondent No.8 was allotted Plot No.5088, while petitioner was placed at Serial No.1 of the waiting list in the said category. The allotment letter was issued on 18.06.2007.

As per the petitioner, prior to that on 23.04.2007, just five days after the draw of lots held on 18.04.2007, original allottee executed General Power of Attorney in favour of Rakesh Kumar, who is husband of respondent No.7. This fact has not been controverted by the respondents in any manner. It

is the case of respondent No.7 that the original allottee transferred the aforesaid plot in her name, on the basis of above mentioned General Power of Attorney, on 17.07.2007.

In CWP No.24401 of 2014, which was decided on 12.04.2016, the Hon'ble High Court, while taking into consideration the above stated facts, doubted the intention of the original allottee, while observing as to whether the application for allotment was made by Rajesh Kumar for himself or on behalf of respondent No.7-Meenu Sood. The execution of General Power of Attorney by respondent No.8 in favour of husband of respondent No.7 within five days of the draw of lots, itself speaks about the real intention of the original allottee. He appears to be a dummy applicant, who applied in the reserved category of handicapped, not for his own benefit but to benefit respondent No.7, who admittedly does not fall within the reserved category of Physically Handicapped and Blind. The plea raised by respondent No.7 that she is bonafide purchaser of the plot in question, is not well founded. The transfer of plot in the name of respondent No.7 within just one month of the issuance of allotment letter cannot be justified in any manner. To hold otherwise would defeat the very purpose of such a reservation.

In view of the above, it stands proved that respondent No.8 got allotted the plot in question under the reserved category with ulterior motive. So, the impugned order (Annexure P-16) cannot stand legal scrutiny. The allotment in question was made more than 10 years back. So, it is doubtful as to whether any waiting list in handicapped category is still subsisting.

Sequally, the impugned order (Annexure P-16) dated 16.09.2016 is hereby set aside and in case, any such waiting list in handicapped category is

still subsisting then GLADA can consider allotment of the plot in question to the person placed at Serial No.1 in such waiting list, subject to his/her eligibility, if rules so permit.

This writ petition stands disposed of accordingly.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

25.02.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No