

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

212

CWP-8075-2019

Date of decision:29.03.2022

Sonu Mishra

...petitioner

V/S

U.T.Chandigarh and others

...respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

HON'BLE MR. JUSTICE LALIT BATRA

Present:- Mr.R.S.Bains, Senior Advocate with
Mr.Harmanjeet Singh Sidhu, Advocate
for the petitioner

Mr.Ashish Rawal, Advocate
for respondents no.1 to 4

Amol Rattan Singh, J. (Oral)

By this petition the petitioner seeks setting aside of the order dated 06.03.2017 (Annexure P-1), passed by the Estate Officer, Chandigarh (respondent no.3), vide which the petitioner has been declared to be ineligible for allotment of a flat under the Chandigarh Small Flats Scheme, 2006 (for short, “the Scheme”), on the ground that his name does not appear in the voters list in the years 2004 to 2008.

Though learned senior counsel appearing for the petitioner vehemently argues that the petitioner having been in litigation qua allotment of a flat under the Scheme since the year 2014 when he had filed CWP-22850-2014,

(decided on 22.12.2014 along with a bunch of writ petitions), however, learned counsel for the respondent-U.T.Administration has pointed to a copy of the notification 09.01.2019 annexed as Annexure R-6 with the reply of the said respondents, which stipulates that the Secretary, Estates-cum- Finance Secretary, Chandigarh Administration, would be the Appellate Authority to perform such functions in terms of para 17(a) of the Scheme, against any orders passed by the competent authority under that scheme itself. He therefore submits that the impugned order having been passed by the Estate Officer, it is an appealable order in terms of the aforesaid notification, and if any party is aggrieved of an order passed in appeal, a revision is also provided.

Having considered the matter, despite the very vehement arguments of learned senior counsel for the petitioner to the effect that it is a case where this court should exercise its discretion under Article 226 of the Constitution of India, we are of the opinion that a detailed speaking order having been passed by the competent authority, if the petitioner is aggrieved in any manner against it, his first remedy is by way of an appeal before the appellate authority, though of course it is to be noticed that at the time when the impugned order was passed in the year 2017, possibly no such appellate authority existed, with the notification being dated 09.01.2019.

The petitioner is also stated to have filed COCP-152-2016, as the directions given by a coordinate Bench of this court on 22.12.2014 in CWP-2317-2014 and connected cases were not complied with; and it is only thereafter that the impugned order has been passed.

In view of the above, we dispose of this writ petition with liberty to

the petitioner to file an appeal before the competent authority within one month from today, which appeal shall not be objected to on the grounds of limitation in view of the entire circumstances given hereinabove and would be entertained and finally adjudicated upon by the appellate authority, on merits, within a period of four months thereafter.

(AMOL RATTAN SINGH)
JUDGE

(LALIT BATRA)
JUDGE

29.03.2022

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No