

CWP No.3477 of 2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.3477 of 2016

Date of decision : 16.01.2023

Ram Chand Sharma

.....Petitioner

VERSUS

Chandigarh Administration and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. S.S. Toor, Advocate
for the petitioners.

Mr. Abhinav Sood, Advocate,
for respondents No.1 to 3.

Mr. B.D. Rana, Advocate
for respondent No.4.

Mr. Arjun Kundra, Advocate
for respondent No.9.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the Licensing of bare booth Sites/Built up Booths to the persons with Disabilities Scheme, 2009, issued on 02.03.2009 (hereinafter referred to as '2009 Scheme), vide which the criteria for allotment of booths has been changed, because of which the petitioner has been deprived of his legal right of allotment of booth under the handicapped persons category.

2. It is the contention of the learned counsel for the petitioner that because of the changes carried out by the official respondents in the policy on

02.03.2009, they have ultimately changed the criteria for allotment of the booths, which entitles a person with lesser disability for allotment of a booth on first come first serve basis, which has denied the petitioner his right because the persons with lesser disability than the petitioner would be entitled for the booths prior to the petitioner under the said policy. It is, on this basis, challenge has been posed to the Scheme dated 02.03.2009 (Annexure P-2).

Counsel for the respondents have pointed out that the challenge in the writ petition is to the allotment of booths, which were allotted as per the Chandigarh Allotment of Land to the Persons with Disabilities Scheme, 2001 (hereinafter referred to as '2001 Scheme'), issued on 07.05.2001. The private respondents are all allottees under the said Scheme, who were allotted booths through draw of lots held on 11.08.2003. Reference in this regard has been made to Annexure P-17. Counsel, on this basis, contends that the Scheme, which is under challenge and the Scheme under which the persons who have been allotted plots and impleaded as respondents, had a different criteria for consideration. The entitlement of the private respondents under the 2001 Scheme is not under challenge. Since the 2001 Scheme is not applicable to the case in hand, mere challenge to the 2009 Scheme would not affect the rights of the private respondents.

We find the submissions made by the counsel for the respondents to be correct in the given facts and circumstances of the case. The Scheme being under challenge is dated 02.03.2009 and the private respondents have never been allotted the booths under the said Scheme. The claim, therefore, as put forth by the petitioner challenging the allotment of the booths to the private respondents cannot sustain.

As regards the assertions of the petitioner and the ground taken for challenging the Scheme dated 02.03.2009 (Annexure P-2) relatable to the percentage of disability and the entitlement depending upon such percentage of disability i.e. person with higher disability would be entitled to the allotment over and above a person with lesser disability, the said aspect cannot be gone into by the Court as it is a matter of policy to be decided by the Competent Authority. Further, the percentage of disability to be taken into consideration is dependent upon the policy which has to be framed by the Competent Authority. Merely because the principle of first come first serve has been made applicable in the subsequent Scheme of 2009, the same cannot in itself be said to be discriminatory or violative to the provisions of equality. In any case, the policy matter with regard to the eligibility is within the domain of the Executive, which power has been exercised by the respondents which cannot be faulted with.

Finding no merit in the present writ petition, the same, therefore, stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

16.01.2023
Harish

(VIKRAM AGGARWAL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>