

CWP-35521-2019

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2024:PHHC:029905

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-35521-2019

Date of decision : 01.03.2024

Bimla

... Petitioner

Versus

Union Territory Chandigarh and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Jitender Dhanda, Advocate
for the petitioner.

Mr.Jaivir S. Chandail, Addl.Standing Counsel and
Ms.Jyoti Kumari, Advocate
for U.T. Chandigarh-respondents no.1 and 2.

Mr.Amandeep Joshi, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the impugned order dated 19.11.2019 (Annexure P-5). A further prayer has been made for issuance of a writ of mandamus directing respondents no.1 and 2 to allot and hand over physical possession of a house under Type 10 category to the petitioner.

2. Brief facts of the present case are that the House Allotment Committee, U. T. Chandigarh had issued a letter dated 15.05.2019 to the petitioner for out of turn allotment on the basis of public interest in which the petitioner was informed that her case for out of turn allotment of government house had been approved by the Advisor to the Administrator,

Union Territory, Chandigarh and the petitioner was required to submit an online application form apart from fulfillment of other formalities. The petitioner in pursuance of the same had submitted the relevant documents and requested for allotment of a particular house i.e. House No.10/261, Sector 7, Chandigarh in spite of the fact that the said house was not vacant. Thereafter, the petitioner made a request for allotment of House no.10/290 Sector 7, Chandigarh, which had already been allotted to one Rajinder Prasad, OSD, Punjab Vidhan Sabha, Chandigarh and thus, the allotment of the said house could not be made to the petitioner. The petitioner thereafter, vide letter dated 30.05.2019 requested that any house in Sector 7, Chandigarh be allotted to her, which at that stage was rejected on account of the fact of non-availability of 10 type vacant houses to which the petitioner was entitled in Sector 7. The petitioner thereafter again vide letters dated 06.06.2019 and 10.06.2019 requested that she be allotted House No.10/416 in Sector 22 Chandigarh, which again was not allotted on account of non-vacation. The petitioner vide letter dated 14.06.2019 requested that she may be allotted House No.10/294, Sector 7, Chandigarh which could also not be allotted as it was not vacant. On account of the fact that the petitioner instead of seeking allotment of a house which was vacant and available, kept insisting for allotment of specific houses in specific sectors which were not vacant / available, thus, no allotment letter could be issued to the petitioner. In the meantime, the Administrator, Union Territory, Chandigarh in the month of July/August, 2019 reviewed all the allotments to comply with the judgment of the Hon'ble Supreme Court of India in ***Mrs. Asha Sharma vs. Chandigarh Administration and others*** reported as **2011(10) SCC 86**. The relevant portion of the said decision of the Administrator, U.

T. Chandigarh, is reproduced hereinbelow:-

“The Details are being provided below:-

Sr. No.			Quota for 2018-19	Approval s for allotment taken	Allotted and occupied	Allotted on vacation and yet not occupied	Not yet allotted
1	UT Chandigarh	Public Interest	20	62	36	6	20
2		Medical Ground	21	21	20	0	1
3	Haryana	Public Interest	20	20	8	2	10
4		Medical Ground	21	21	19	0	2
5	Punjab	Public Interest	20	20	11	2	7
6		Medical Ground	21	21	14	1	6
7	High Court of Punjab and Haryana	Public Interest	14	14	14	0	0
8		Medical Ground	15	15	15	0	0
Total			152	194	137	11	46

Now to adhere to the directions of the Hon'ble Supreme Court of India in the "Asha Sharma Vs. UT Chandigarh" case the in no case out of turn allotments not exceed 10% of the total allotments made, the following are the viable options.

1. Houses Allotted on Vacation and yet not occupied in Public interest to all the constituents be allowed to be withdrawn and cancelled. These will be 6(UT)+ 2(Haryana) +2(Punjab) = 10 houses.
- 2 Similarly for the houses approved in Public interest but yet to be allotted may be cancelled. These will be 20 (UT)+ 10 (Haryana) +7(Punjab) = 37 houses.
3. For the Houses approved on Medical Grounds for the column allotted on Vacation and Yet Not Occupied and Yet to be Allotted may be allowed for the further allotment of the houses. These will be 1(UT) +2(Haryana) +7(Punjab) = 10 houses”

A photocopy of the same was handed over to the Court during the course of hearing with an advance copy to the counsel for the petitioner. It would be relevant to note that the said document was also annexed as Annexure R-1 along with the status report dated 29.01.2024 filed in CWP-34897-2019 which has also been decided by this Court vide order of even date and a copy of the same had been given to the counsel for the petitioner at the time of filing of the status report much in advance. The counsel for the petitioner had raised no objection for this count to take the said document on record in this case and consider the same and did not pray for any adjournment on the said aspect.

A perusal of the said decision would show that in order to comply with the direction of the Hon'ble Supreme Court in the case of ***Mrs. Asha Sharma*** (supra), the Administrator, Union Territory Chandigarh had decided that the houses which had been approved in public interest but yet had not been allotted, be cancelled. Since the petitioner was never allotted the said house, thus, her case was covered by the said decision. The petitioner had filed CWP-29372-2019 which had been disposed of by a Coordinate Bench of this Court vide order dated 14.10.2019 directing the respondent authorities to consider the representation filed by the petitioner. In pursuance of the same, the House Allotment Committee, Chandigarh vide order dated 19.11.2019 rejected the case of the petitioner on primarily two grounds. The first ground being that the petitioner had repeatedly moved applications / representations for seeking specific allotment(s) in spite of the fact that the said house(s) were not vacant/available. The second ground was to the effect that the allotment in favour of the petitioner had been cancelled by the Administrator, Union Territory, Chandigarh in the month

of July/ August 2019, relevant portion of which decision has been reproduced hereinabove.

3. Learned counsel for the petitioner has submitted that the case of the petitioner is on a similar footing as that of Balwinder Singh in CWP-34897-2017, whose case has been allowed by this Court vide order of even date. Learned counsel for the respondent has however submitted that the case of the aforesaid Balwinder Singh is completely different from the case of the present petitioner inasmuch as in the case of Balwinder Singh, the allotment letter had already been issued to the said petitioner and his rights had been crystallized, whereas in the case of the petitioner, there was no such allotment letter issued. It is further submitted that in the said case, it has been observed by this Court while allowing the said writ petition that the petitioner therein was not covered by the order of the Administrator passed in July/August 2019 whereas the case of the present petitioner is squarely covered under point 2 of reasons of the Administrator, (the relevant portion of which has been reproduced hereinabove) which provided for cancellation of approval, where allotment had not been made. It is further submitted that the petitioner had repeatedly made applications seeking allotment of specific houses which were not vacant/available and thus, the case of the petitioner deserves to be dismissed.

4. This Court has heard the learned counsel for the parties and has perused the paper book.

5. The relevant portion of the order dated 19.11.2019 vide which the representation of the petitioner has been rejected is reproduced hereinbelow:-

“Whereas Smt, Bimla submitted the relevant documents along with her consent vide his letter dated nil received in this

office 15.05.2019 for allotment of particular House No. 10/261, Sector 7, Chandigarh despite of the fact that the and house was not vacant. Further Smt. Bimla submitted her request dated 15.5.2019 for allotment of House No. 10/290, Sector 7, Chandigarh which was already allotted to Shri Rajinder Prasad, OSD, Punjab Vidhan Sabha, Chandigarh on out of turn. Therefore, the said, allotment could not be made to her. Further she requested vide her letter dated 30.05.2019 that she may be allotted house in sector 7. Chandigarh and due to non availability of 10 type vacant house in Sector 7, allotment could not made. Further vide her letter 06.06.2019 and 10.06.2019 she has requested she may be allotted 10/416 sector-22, Chandgiarh which was not available for allotment due to non vacation. Again vide her letter dated 14.06.2019 she requested that she may be allotted H.No. 10/294 Sector-7, Chandigarh on vacation. As already submitted above, House No. 10/294, Sector 7, Chandigarh could not be allotted to Smt. Bimla due to its non vacation.

Whereas under event (d) of Rule SR-317-AM-2, the "Allotment year means the year beginning on 1st April or such other period may be notified by the Administrator. Union Territory, Chandigarh. Therefore, the cases of those applicants to whom allotment orders were not issued as well as to those to whom allotment orders were issued but they have not taken possession of the allotted house were reviewed at the level of H.E. the Administrator, Union Territory, Chandigarh, in the month of July, 2019, and allotment so made were withdrawn and cancelled with immediate effect."

A perusal of the above part of the letter would show that repeatedly the petitioner had sought allotment of specific houses which could not be allotted to the petitioner for the detailed reasons given in the above said order. The case of the petitioner cannot be stated to be on a similar footing as that of Balwinder Singh (petitioner in CWP-34897-2019),

whose writ petition has been allowed by this Court vide order of even date as allotment letter had been issued in favour of the said petitioner whereas no allotment letter has been issued in favour of the present petitioner. Moreover, prior to any allotment having been made in favour of the petitioner, the recommendation in favour of the petitioner was also reviewed and cancelled, in order to comply with the directions of the Hon'ble Supreme Court in the case of *Mrs.Asha Sharma* (supra) inasmuch as it was decided by the Administrator of Union Territory Chandigarh that the persons to whom the houses had although been approved in public interest but yet had not been allotted, would stand cancelled, so as to not exceed the out of turn allotments beyond 10% as mandated by the Hon'ble Supreme Court. In the case of Balwinder Singh, it has been held that the case of the petitioner therein was not covered either under Point 1 or Point 2 of the said decision of the Administrator so as to call for cancellation of the allotment in favour of the said Balwinder Singh.

6. Keeping in view the abovesaid facts and circumstances, the present petition being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

March 01, 2024
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No