



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(213) CWP No.30643-2019(O&M)

Date of Decision:- 04.02.2025

Mukesh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM HON'BLE MR.JUSTICE KULDEEP TIWARIPresent Mr.Vivek Chauhan, Advocate,
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Ms. Diya Sodhi, Advocate,
and Mr. Sehajbir Singh, Advocate,
for respondents no.2 and 3.

KULDEEP TIWARI, J (ORAL)

1. Petitioner, who belongs to Economically Weaker Section (hereinafter referred to as 'EWS') Category has challenged the order dated 31.07.2019 (Annexure P-7), passed by respondent no.4 - Permanent Lok Adalat, where through his petition was dismissed and this caused grievance to him and pressed him to file the instant petition under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned order.

2. The facts which are not in dispute that in the year 1993, the petitioner being eligible under the EWS category, was allotted a flat under EWS category, by Greater Ludhiana Area Development Authority (hereinafter referred to as 'GLADA'). That flat was cancelled subsequently on dated 26.10.1999. Being aggrieved with the cancellation order (supra), the petitioner



approached the District Consumer Forum by filing a complaint in the year 2000, however, same was withdrawn. Yet he made a second attempt before the same Forum by filing second complaint, which also met the same fate and was dismissed on merit vide order dated 14.04.2004. Even the statutory appeal, as preferred by the petitioner before the State Commission was further dismissed vide order dated 15.09.2005.

3. The above failure did not stop the petitioner to accept his defeat, rather he kept on fighting for his right, and this time he filed a civil suit, and he succeeded in the said civil suit, as decree was passed in his favour, vide judgment, and decree dated 19.07.2011 (Annexure P-1). The respondent GLADA challenged this decree which passed in favour of the petitioner by filing a statutory appeal, and that yield the fruit and the judgment and decree was set aside by the learned Appellate Court, vide judgment and decree dated 06.02.2013 (Annexure P-2). However, considering the mitigating circumstances, the learned Appellate Court concerned passed the following directions:-

“Since as per the appellant itself the respondent-plaintiff is a jhuggi dweller, therefore, apparently, the appellant should reconsider the withdrawal of the cancellation letter Ex.D2. Hence, although the impugned judgment and decree are, hereby set aside and the suit of the plaintiff-respondent is hereby dismissed with no order as to costs, yet it is ordered that in case the respondent plaintiff applies for withdrawal of the cancellation letter Ex.D2 within three month from today, the appellant will reconsider his request sympathetically within one month thereafter. Decree sheet be drawn. Trial file be returned immediately, while the appeal filed be consigned to the record .”

4. The aforesaid directions were never challenged by the contesting respondents rather same was meticulously complied with by passing a speaking



order on dated 14.01.2014. Finally, the prayer of the petitioner was declined mainly on two premises (i) there is a delay of 13 and a half years for approaching the authority consider to reconsider his cancellation order dated 26.10.1999, and (ii) one Bholu @ Mola has made to sit by PUDA/GLADA in this house as a temporary shelter under yellow card holder.

5. *Prima facie*, this Court is not in concurrence with the view taken by the competent authority for declining to reconsider the cancellation order.

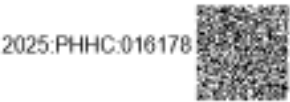
6. So far as the delay is concerned, that has occurred on account of the petitioner approached different forums. It is not the case that petitioner was sitting over the issue, and after 13 years approached the authority concerned. All the sequence narrated above clearly reflect that petitioner never slept over the issues rather fighting for his rights before different forums.

7. So far as the second issue which was another reason for declining to re-consider the cancellation order is, granting temporary possession to another person which is also not acceptable, as either there is no allotment in his favour or he can retain possession on some legal documents, which would deprive the petitioner from his rights. Therefore, this Court is of the view that the order dated 06.02.2013 requires re-considerations.

8. In view of the above, the order dated 06.02.2013 (Annexure P-2) does not pass the test of legality. This Court has also examined the impugned Award passed by the Permanent Lok Adalat, concerned. The application preferred by the petitioner before the Permanent Lok Adalat, concerned was dismissed merely on the above grounds which was not found legally correct by this Court, therefore, the impugned Award requires interference.

9. In summa, impugned Award and order are ordered to be **set aside**.

The instant writ petition is **allowed**. A mandamus is also passed upon the



competent respondent among contesting respondents to re-consider the instant matter and within three months from today pass a final verdict after giving a final opportunity to the petitioner. The speaking order shall also be communicated to the petitioner.

04.02.2025
mamta

(KULDEEP TIWARI)
JUDGE

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