

244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26920-2016 (O/M)
Date of decision : 09.01.2025

Smt. Santosh Chaudhary Petitioner

Versus

The Municipal Corporation, Chandigarh and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. H.S. Jaswal, Advocate
for the petitioner.

Mr. Gaurav Mohunta, Advocate
for respondents No. 1 and 2.

Respondent No. 3 ex-parte.

Mr. Brighu Dutt Sharma, Advocate
for respondent No. 4.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Smt. Santosh Chaudhary) has filed the instant civil writ petition under Article 226 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 29.08.2016 (Annexure P-12), passed by Joint Commissioner-II, Municipal Corporation, Chandigarh (in short 'Joint Commissioner'), whereby the claim of the petitioner for allotment of platform No. 36/08 has been rejected.

2. The case set up by the petitioner is that her husband (Mohinder Singh) was running the business of selling second hand books since the year 1979 in Sector 15, opposite Panjab University, Chandigarh. and Mohinder Singh had also got an Association Welfare Society

registered under the Societies Act, wherein he was holding the post of a Propaganda Secretary. The husband of petitioner (Mohinder Singh) is stated to have expired on 28.09.1998. The petitioner claims that after death of her husband (Mohinder Singh), she started looking after and running the business of selling second hand books continuously. It is submitted that in the year 2007, in order to re-settle these second hand book sellers, the Chandigarh Administration framed a Scheme known as 'Licensing of Built-up Platforms to the Second Hand Book Sellers' (in short '2007 Scheme') in Sector 15, Chandigarh for allocation of built up platform on monthly licence fee basis. The said 2007 Scheme is stated to have been notified by the Chandigarh Administration, vide Notification dated 24.10.2007 (Annexure P-3).

2.1 It is the admitted case of the petitioner that a survey to re-settle the second hand book sellers, Sector 15, opposite Panjab University, Chandigarh under 2007 Scheme was conducted, however, at the relevant time, the petitioner was not available on account of her illness. It is stated that the petitioner submitted various representations to respondent-Municipal Corporation, Chandigarh for consideration of her claim, however, the same was not considered by the authorities on the ground that the name of husband of the petitioner was not included in the survey list.

2.2 It appears that after 2011, when the petitioner was informed, vide letter dated 09.05.2011 (Annexure P-5) that her claim was not considered as the name of her husband was not included in the survey list, there was complete silence on the part of the petitioner as regards her claim for allotment of built up platform is concerned.

2.3 It transpires that in the year 2014, a civil writ petition (CWP-1966-2015) was filed before this Court, wherein the issue regarding draw of lots was raised in respect of allocation of built up platform under the 2007 Scheme. The said civil writ petition came to be decided on 05.11.2015 (Annexure P-7) and thereafter, the petitioner submitted a representation dated 15.12.2015 (Annexure P-8) to claim stake in respect of platform No. 36/08 on the ground that the same was lying un-allotted and that certain ineligible persons have also been allotted the platforms. The aforesaid representation (Annexure P-8) was followed by a legal notice dated 05.02.2016 (Annexure P-9) and since no action was taken on the said legal notice (Annexure P-9), the petitioner approached this Court by filing a civil writ petition (CWP-10970-2016), which came to be disposed of, vide order dated 28.05.2016 by directing respondents herein to take a decision on the legal notice, served by the petitioner, within a period of three months from the date of receipt of certified copy of the order.

2.4 It appears that in pursuance to order dated 28.05.2016, passed by this Court in CWP-10970-2016, the claim of the petitioner was considered and rejected by Joint Commissioner-II, Municipal Corporation, Chandigarh, vide impugned order dated 29.08.2016 (Annexure P-12).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court, for the relief (s), as noticed hereinabove.

4. Heard.

5. A perusal of the impugned order dated 29.08.2016 (Annexure P-12) would show that the claim of the petitioner for allotment of built up platform has been rejected primarily on two grounds; firstly that the name of the petitioner or her husband did not figure in the survey list and secondly, the petitioner was already occupying SCF-12, Sector 24-D, Chandigarh and running the business of selling second hand books.

6. In the instant writ petition, there is no dispute about the fact that neither the petitioner's name nor her husband's name figured in the survey list, which is one of the eligibility condition envisaged under Clause 6 of Notification dated 24.10.2007 (Annexure P-3), which reads as under :-

“6. A person shall be eligible for the allocation of built up platform under this scheme if :-

a) His/her name figures in the survey conducted by the Chandigarh Administration/Municipal Corporation, Chandigarh for identifying the old book sellers operating from V-3 road in front of Panjab University, Sector 15-A, Chandigarh.

b) the applicant has attained the age of 18 years.

c) he/she does not own a commercial site/shop in Union Territory of Chandigarh, Mohali, Panchkula and NAC Zirakpur in his own name or in the name of any dependent member and the total family income from all sources does not exceed Rs. 7500/- per mensem (Rupees seven thousand and five hundred only) for which he shall have to furnish an affidavit duly attested by the Executive Magistrate, Chandigarh to this effect.

d)he is not an employee of Government /Semi-Government Organisation/Bank/Public Sector Undertaking/Civil Body etc;

e) in case more than one person are found to be carrying out the sale of books from the same stall at the existing site during the survey conducted as in sub clause 'a' above then the licence shall be granted jointly to such eligible persons.”

6.1 The only basis for filing the instant civil writ petition by the petitioner is two-fold, namely :-

- (i) that the name of respondent No. 3-Jindu Ram also did not figure in the survey list, but still he has been allocated platform ; and
- (ii) respondent No. 4-Sunil Kumar is having his own booth No. 125, Sector 24-D, Chandigarh and even then he has been allotted the platform.

6.2 As regards the aforesaid two contentions raised on behalf of the petitioner, the stand of respondent-Municipal Corporation, Chandigarh is stated in para-13 of its written statement, which reads as under :-

“13. That in reply to the contents of para 13 it is submitted that although in the Survey List the name of respondent No. 3 did not figure yet he was allotted Platform No. 18/16 as during the survey one Arjun Kumar at Sr. No. 16 was found working in Sector-15, Chandigarh. The said Arjun Kumar son of Hazari Lal resident of House No. 3530, Sector 15-D, Chandigarh however submitted an affidavit that he was working as Salesman on the Phari which was in the name of Respondent No. 3 Jindu Ram and during the Survey the owner was not present and as such he got his name

registered during the Survey. The copy of the affidavit dated 25.5.2007 and representation submitted in this regard are appended herewith as Annexure R-3 and R-4. Thereafter a representation was also received by the Old Books Sellers Associations for correction in the members list in this regard which is appended herewith as Annexure R-5. Thus instead of Arjun Kumar who was the worker of Respondent No. 3, Respondent No. 3 himself has been allotted the platform accordingly.”

6.3 As regards the second contention, the stand of respondent-Municipal Corporation, Chandigarh is stated in para-19 of its written statement, which reads as under :-

“19. That the contents of para 19 are wrong and denied. No law point is involved in the present writ petition and same deserves to be dismissed. However, w.r.t. Law point (VII) it is submitted that the name of Sh. Sunil Kumar Son of Sh. Hari Chand finds mention in the Survey List Sr. No. 5.”

6.4 Additionally, even respondent No. 4 has submitted a short reply, wherein he has taken the following stand :-

“2. That only whispering of allegation is made by the petitioner against the deponent in para No. 16 that the deponent was owner of Booth No. 125, Sector 24-C, Chandigarh and the deponent cannot be allotted any booth in the booth market, Sector 15, Chandigarh is totally false because Booth No. 125, Sector 24-C, Chandigarh stands in the name of one Sh. Raj Kumar as per information collected by the deponent by various departments.”

7. I have considered the aforesaid stand taken by respondent-Municipal Corporation, Chandigarh in respect of above referred contentions raised on behalf of the petitioner and in the absence of any material on record to dislodge the aforestated stands; I find no

reason to doubt the said stand taken by respondent-Municipal Corporation, Chandigarh.

8. That apart, the fact remains that the petitioner's name was not there in the survey list, which is conceded position on record, therefore, the petitioner was not eligible for allotment of built up platform under the 2007 Scheme, as notified by the Chandigarh Administration, vide Notification dated 24.10.2007 (Annexure P-3).

8.1 Furthermore, the claim of the petitioner stood declined by respondent-Municipal Corporation, Chandigarh, vide letter dated 19.05.2011 (Annexure R-1) and thereafter, there has been a complete silence on the part of the petitioner as regards her claim at least upto December, 2015 i.e. for a period of almost four years.

9. Considering the totality of circumstances, I find no merit in the instant civil writ petition and same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

09.01.2025
sjks

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