2025:PHHC:055790-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-674-2025 (O&M)
Decided on: 28.04.2025

OM PRAKASH GARG

….Petitioner

versus

HARYANA SHEHRI VIKAS PRADHIKARN & ANR.

….Respondents

CORAM: **HON'BLE MR. JUSTICE SUDHIR SINGH**
HON'BLE MR. JUSTICE ALOK JAIN

Present:- Mr. Ashok Malik, Advocate for the petitioner.

SUDHIR SINGH, J.

CM-1254-CWP-2025

Allowed as prayed for and document Annexure A-1 (copy of the application form) is taken on record.

CWP-674-2025

The petitioner has sought issuance of a writ in the nature of Mandamus directing the respondent-Haryana Shehri Vikas Pradhikaran (for short 'HSVP') to allot him plot No.367, Sector 48, Faridabad. A further writ of Certiorari has been sought quashing the orders dated 14.01.2010 (Annexure P-7) and 10.04.2024 (Annexure P-9) passed by the Administrator, HUDA, Faridabad and the Additional Chief Secretary to Govt., Haryana, Town & Country Planning Department, Chandigarh, respectively.

2. It is the case of the petitioner that he had applied for allotment of a 6 Marla Plot in Sector-48, Faridabad under the Booking Finance Scheme 2006 of HSVP (erstwhile HUDA) and had also deposited an amount of

Rs.58,415/-. The draw of lots were held on 20.03.2007, wherein the petitioner was declared as successful and he was allotted plot No.367 in Sector 48, Faridabad. The petitioner wrote a number of letters to the respondent-authorities at Faridabad and Panchkula for issuance of acceptance-cum-demand letter for plot No.367 as mentioned above, but to no avail. It is further the case of the petitioner that the respondent-authorities due to their own mistake had placed the name of the petitioner in the Backward Classes Category while conducting the draw of lots on 20.03.2007, whereas the petitioner was required to be considered under the General Category. It is further pointed out that for any lapse on the part of the respondent-authorities and their officials, the petitioner cannot be made to suffer. Vide the communication dated 03.06.2009 passed by the respondent-authorities, the petitioner was informed about the cancellation of allotment of the aforesaid plot. Pursuant thereto, the petitioner filed an appeal before the Chief Administrator, HUDA, Faridabad, but the same was dismissed on 22.12.2009. It is further the case of the petitioner that aggrieved of the order passed by the Chief Administrator rejecting his appeal, he filed a complaint before the District Consumer Disputes Redressal Forum, Faridabad, but the same was dismissed, being not maintainable. Thereafter, the petitioner moved a revision petition before the Secretary to Government of Haryana, Town and Country Planning Department, Haryana-HSVP, Panchkula on 20.05.2023. The said revision was also dismissed on 02.04.2024.

3. Learned counsel for the petitioner has vehemently contended that the allotment of the plot in question in favour of the petitioner has wrongly been cancelled by the respondent-authorities. It is further argued that it is

settled law that non-consideration of the name of an allottee in the correct category would not result into automatic cancellation of the allotment. It is further argued that as a matter of fact, the petitioner had applied in a correct category, but it was the respondent-authorities, which of their own had considered the name of the petitioner into a wrong category and, therefore, the petitioner cannot be deprived of the allotment of the plot made in his favour. It is also argued that the respondent-authorities are stopped from cancelling the allotment under the doctrine of promissory estoppel and, therefore, the impugned orders are liable to be quashed by this Court.

4. We have heard learned counsel for the petitioner and have also gone through the paper book.

5. The only question that arises for consideration by this Court is whether the impugned action on the part of the respondent-authorities requires any interference by this Court.

6. Firstly, as per the facts on record, the cancellation of the allotment in favour of the petitioner had been done for the reasons that he had been allotted such plot under a wrong category i.e., BC (Backward Classes), whereas it is the case of the petitioner himself that he belongs to the General Category. That being the position, even if, the name of the petitioner had been considered in a wrong category, may be for the lapses on the part of the officials of the respondent-authorities, that does not *ipso facto* make him eligible or entitled for/to allotment of the plot in question. The argument of the learned counsel for the petitioner that the impugned action suffers from promissory estoppels, is not tenable for the simple reason that having been

considered into a wrong category, he does not get any indefeasible right for allotment of the plot.

7. The second limb of the factual scenario is that as per the own case of the petitioner, he had approached the District Consumer Disputes Redressal Forum at Faridabad by way of a complaint, which was dismissed on 30.11.2012. Thereafter, the petitioner filed a revision before the Secretary to Government of Haryana, Town and Country Planning Department, Haryana-HSVP, Chandigarh on 24.05.2023. There is no explanation for a huge delay of nearly 11 years in filing the revision before the Revisional Authority. It is settled law that one, who sleeps over his right is not entitled to any equity.

8. The delay is genus to which laches and acquiescence are the species. It is further settled that the delay disentitles a party to the discretionary relief under the Article 226 of the Constitution of India. If a litigant keeps sleeping over his rights for a long period and wakes up when he does have an impetus either from the judicial verdict of the Court or otherwise, such litigant is not entitled to any relief. The Hon'ble Supreme Court in **Union of India v. N. Murugesan**, **(2022) 2 SCC 25** has held as under:-

> "**Delay, laches and acquiescence**
>
> **20.** The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These

principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

Laches

21. The word "laches" is derived from the French language meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.

23. A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact

and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.

Acquiescence

24. We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other.

25. Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent. Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may become laches. Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis."

9. In view of the aforesaid discussion, we find that allotment of the plot in favour of the petitioner has rightly been cancelled by the respondent-

authorities. Besides that, we also find that the claim of the petitioner is also barred by delay and laches.

10. In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

11. Pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(ALOK JAIN)
JUDGE

28.04.2025
himanshu
Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No