

(2012) 10 P&H CK 0165

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No"s. 5353, 5358, 16042, 16227, 17776 and 18641 of 2011 and 15402 and 19550 of 2012

Hari Prasad and Others

APPELLANT

Vs

Union Territory Chandigarh
Administration and Others

RESPONDENT

Date of Decision: Oct. 1, 2012

Citation: (2013) 169 PLR 273 : (2013) 2 RCR(Civil) 590

Hon'ble Judges: Rameshwar Singh Malik, J; Jasbir Singh, J

Bench: Division Bench

Advocate: H.C. Arora, for the Appellant; Sanjay Kaushal, Pawan Mutneja, Vishal Sodhi, Kapil Kakkar and Mr. Deepak Sharma for Union Territory, Chandigarh and Mr. A.P. Setia, Dinesh Kumar and Mr. Deepak Agnihotri for Chandigarh Housing Board, for the Respondent

Judgement

Jasbir Singh, J.

By this common order, eight writ petitions viz. Civil Writ Petition Nos. 5353 of 2011 preferred by Hari Prasad & Others, No. 5358 of 2011 by Mewa Lai & Others, No. 16042 of 2011 by Subhash Chand & Others, No. 16227 of 2011 by Raj Kumar & Others, No. 17776 of 2011 by Heera Lai & Others, No. 18641 of 2011 by Harish Bansal, No. 15402 of 2012 by Ram Kalesh & Others and No. 19550 of 2012 by Rajinder Singh & Others, shall be disposed of together. For facility of reference, the facts are being taken from Civil Writ Petition No. 5353 of 2011. This writ petition has been filed seeking issuance of directions to the respondents to allot alternate accommodation to the petitioners, under the Licensing of Tenements and Sites and Services in Chandigarh Scheme, 1979 (hereinafter referred to as "the Scheme").

2. It is a case of the petitioners that in the year 2003, they were residing in the jhuggis at Paisora Colony, which were demolished by the Administration in terms of the above mentioned Scheme. An assurance was given to them that as per the Scheme, small tenements would be allotted to them. Thereafter, the Scheme was

changed and those, in the waiting list, who were uprooted from Paisora Colony, were subsequently allotted small one room flats.

3. It is not in dispute that after demolition of that Colony, applications were invited. It is stated that the petitioners had filed such applications within a stipulated period of one and a half month, as per the Scheme. It is not in dispute that initially, after scrutinizing those applications, tenements were allotted to 1056 residents of the colony and others were kept in the waiting list. It is apparent from the record that at one time, cases of some of the petitioners were considered and rejected on a ground that they had failed to produce documents showing that they were residing in Paisora or any other colony in Chandigarh. At the time of arguments, Mr. H.C. Arora, Advocate, counsel for the petitioners has brought to our notice that even some letters have been issued in the year 2011-12 allotting accommodation to some of the petitioners, whose applications were earlier rejected.

4. Mr. Sanjay Kaushal, Senior Standing Counsel for Union Territory, Chandigarh has stated that those, who could not be accommodated, initially and were kept in the waiting list, accommodation has been provided to them.

5. Taking note of the above facts and circumstances of this case, we are convinced with the prayer of the petitioners to consider their case as per the Scheme, which was in existence in the year 2003 when they were uprooted from Paisora or any other colony. It is their grievance that instead of doing so, their cases were not considered at all under the Scheme. It is further stated that after their uprooting from the Paisora Colony, instead of encroaching upon some Government land, they shifted to some regulated areas of the City, above fact cannot be taken against them.

6. The prayer of the petitioners appears to be genuine, a right had accrued to the them in the year 2003 when they were uprooted from the unauthorized colony. The respondents are bound to consider prayer of the petitioners, as per the Scheme which was in existence in the year 2003 when the colony was demolished. Counsel for the Union Territory, Chandigarh has failed to-show any reason as to why that prayer is not liable to be accepted. Under the circumstances, we dispose of all the writ petitions directing the Estate Officer, Union Territory, Chandigarh to pass separate speaking orders qua all the petitioners. If it is found that any of the petitioners had not moved an application within a stipulated period, when it was invited, his/her claim be rejected. So far as others are concerned, if they are in a position to prove that they were the residents of the Paisora Colony, which was demolished in the year 2003, relief be granted to them and if, at present, the plots/flats are not available, their names be kept in the waiting list to be accommodated in the ensuing Scheme. Needful shall be done within three months from the date of receipt of a copy of this order. Before passing any order, written notices be given to the petitioners to prove their case.