
(1993) 11 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 15728 of 1992

G.S. Lamba

APPELLANT

Vs

Punjab State

RESPONDENT

Date of Decision : 30-11-1993

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1994) 106 PLR 709

Hon'ble Judges : S.K. Jain, J;G.R. Majithia, J

Bench : Division Bench

Advocate : A.K. Chopra, for the Appellant; G.S. Cheema, AAG for Respondents Nos. 1, 2, 3, 5 and 6 and N.B.S. Gujral, for the Respondent

Final Decision : Dismissed

Judgement

G.R. Majithia and S.K. Jain, JJ.—The petitioner has sought a mandate to the State of Punjab through Secretary Home, Director-cum-Joint Secretary; Department of Relief and Resettlement, Punjab, Deputy Commissioner, Jalandhar, Jalandhar Improvement Trust, Estate Officer, Urban Estates Jalandhar, Deputy Commissioner, Ludhiana and Estate Officer, Urban Estates, Ludhiana, to allot him a residential plot of 10 Maria and two shops for his adult sons at Jalandhar/ Ludhiana in terms of the policy decision of the State Government dated December 24, 1985, for settlement of 1984 Danga Pirit Sikh migrant families, in this petition under Articles 226/227 of the Constitution of India.

2. The petitioner says that he applied for allotment of residential plot and commercial sites in terms of clause I (ii) of the policy for Resettlement of Sikh migrant families contained in the Punjab Government in Department of Revenue (Relief & Resettlement Branch) Memo No. 1 (4) 85-RR Cell/1285, dated December 24, 1985. The same reads thus :-

" With a view to mitigating the hardship and assisting in the economic resettlement of Sikh migrant families, which have migrated to Punjab on account

of the disturbance of November, 1984 between the period 1.11.1984 to 11.12.1985, Government have taken the following policy decisions :-

(1) Registration/resettlement of Sikh Migrant Families :

(i) xxx xxx xxx (ii) All Sikh families who have migrated to Punjab during the period from 1.11.1984 to 11.12.1985 shall get themselves registered with the Deputy Commissioner of the District in which they are residing, before 15th January, 1986. The head of each Sikh migrant family shall apply for registration to the Deputy Commissioner. His application shall be accompanied by an affidavit on a non-judicial stamp paper of Rs. 3/-. The application accompanied by an affidavit should be verified by the local M.L.A. who shall certify that the applicant is indeed a Sikh migrant who has migrated to Punjab during the period from 1.11.84 to 11.12.85. The information to be contained in the affidavit has already been indicated vide letter No. 1 (4)85-RR Cell/15359, dated 13.12.1985. In the affidavit the Sikh migrant must also state that he has not applied for registration in any other district of Punjab. On receipt of application accompanied by the affidavit the Deputy Commissioner shall register each Sikh migrant family and assign to each family a registration number. Thereafter the Deputy Commissioner shall register each Sikh migrant family and assign to each family registration number. Thereafter the Deputy Commissioner shall issue to each Sikh migrant family settled in his District, an identity card. On the production of this identity card, the Sikh migrant family shall become eligible for various facilities and concessions, announced by the Government of Punjab."

He says that he also made the deposits as prescribed under the policy, but no allotment has been made to him. Counsel particularly drew our attention to letter No. 368/DR&RO/RAL, dated February 7, 1991, addressed by the Deputy Commissioner, Jalandhar to the Director-cum-Joint Secretary, Resettlement Department, Punjab, Chandigarh, with a copy endorsed to the Urban Estate Officer, Ludhiana and the petitioner. The Deputy Commissioner wrote in this letter that the petitioner be allotted residential plot and two shops. He also brought to our notice letter No. 1284 DR&RO/RAI, dated July 6, 1990, addressed by the Deputy Commissioner, Jalandhar to the Commissioner, Jalandhar Division, Jalandhar saying that although the petitioner was eligible for allotment of a residential plot or commercial unit, and the Improvement Trust made allotment in the year 1986, but at the time of allotment the petitioner's application was not with the Trust.

3. In response to the notice of motion issued by this Court, written statement has been filed on behalf of the State of Punjab, Director-cum-Joint Secretary, Relief & Resettlement Department, Deputy Commissioner, Jalandhar and Estate Officer, Urban Estate, Jalandhar. It is stated therein that the petitioner's name for allotment of residential/commercial unit was considered during the draw of lots on June 26, 1986, but he was not successful in the draw of lots. There were total number of 56 residential plots, out of which 14 were in Urban Estate and 42 in Improvement Trust, Jalandhar. A total number of 240 applications were

received. Out of those, 56 applicants had been successful in the draw of lots which was held on February 26, 1986 by Deputy Commissioner, Jalandhar. It is further stated that the petitioner submitted applications to Governor, Punjab and those were forwarded by the Deputy Commissioner to the Improvement Trust. On the basis of these applications, the name of the petitioner was incorporated in the list prepared for draw of lots. It is also stated therein that the petitioner's case for allotment through draw of lots will be considered as and when fresh allotment is sought to be made through draw of lots.

4. Written statement has also been filed on behalf of Jalandhar Improvement Trust, Jalandhar. Counsel for the Improvement Trust has also produced before us the original records showing that the petitioner participated in the draw of lots. His name figures at serial No. 202 against Registration No. 375, but he was not successful in the draw of lots. He also brought to our notice the decision taken by the State Government vide Memo No. 1/9/90-3CII/14509, dated October 12, 1990, stating that there was no reservation for commercial units either in the existing government instructions or in the allotment rules. It appears that the Government has revised its earlier decision for making reservation of commercial units for the Sikh migrant families and now there is no provision for reservation of commercial units.

5. The solitary submission of the learned counsel for the petitioner is that although the Improvement Trust Jalandhar has considered the claim of the Sikh migrants for allotment of commercial sites by draw of lots, but in terms of the policy decision, the petitioner, who is a Sikh migrant, is entitled to allotment of a residential plot. The submission is untenable. The State Government has framed a policy decision providing for reservation of residential plots for Sikh migrants in the Urban Estates. The scheme is implemented by draw of lots. There are more than one applicants seeking allotment against the reserved residential plots. The claim inter se of the applicants for the reserved plots can only be scrutinised by draw of lots and not otherwise. No fault can be found with the decision taken by the State Government or Improvement Trust to make allotment against the reserve category by draw of lots.

6. Apart from this, we do not find that under the policy decision, any direction can be issued to the respondents to allot a plot to the petitioner against the reserved quota meant for Sikh migrants. The purpose of the Scheme is appreciable. But, it does not confer any right, much less legal right, for the enforcement of which the petitioner can move this Court. It is settled rule of law that no one can ask for a writ of mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. (See in this connection, *Mani Subrat Jain and Others Vs. State of Haryana and Others*, .

7. For the reasons stated above, the writ petition is bereft of any merit and the same is dismissed.