

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R.No.08 of 2017
Sajawal Khan Ranjha
Versus

Federal Government Employees Housing Foundation and another

Date of Hearing: 12.10.2020
Petitioner by: Mr. Shahid Kamal Khan, Advocate
Respondents by: Mr. Muhammad Nazir Jawad, Advocate
for respondent No.1
Mr. Muhammad Nadeem Khan Khakwani,
learned Assistant Attorney-General
Syeda Addila Rubbab Kazmi, Deputy
Director, Ministry of Information and
Broadcasting

MIANGUL HASSAN AURANGZEB, J:- Through the instant civil revision petition, the petitioner, Sajawal Khan Ranjha, impugns the judgment and decree dated 08.11.2016 passed by the Court of the learned Additional District Judge, Islamabad, whereby his appeal against the judgment and decree dated 18.04.2016, passed by the Court of the learned Civil Judge, Islamabad, was dismissed. Vide said judgment and decree dated 18.04.2016, the learned Civil Court dismissed the suit for declaration and mandatory injunction instituted by the petitioner seeking a declaration to the effect that he is entitled to the allotment of a plot in the scheme announced by the Federal Government Employees Housing Foundation (“F.G.E.H.F.”) in the year 2004 and for which the amount had been deposited.

2. The facts essential for the disposal of this petition are that on 20.02.2004, an advertisement was published by the Ministry of Information and Broadcasting (“Ministry of I&B”) inviting applications from journalists in Rawalpindi and Islamabad for the allotment of plots reserved for them in phase-4 of the F.G.E.H.F’s housing scheme in Sector G-14, Islamabad. The conditions for the eligibility of the applicants were set out in the said advertisement. One of the conditions was that the applicant had to be a full-time journalist. The applicants were required to submit their applications by 29.02.2004. Through

corrigendum to the said advertisement published on 08.04.2004, the last date for submission of the applications was extended to 15.04.2004.

3. It is an admitted position that the petitioner submitted an application (Exh.D/2) for the allotment of a category-II plot against 3% quota reserved for journalists in the said scheme. Vide letter dated 28.06.2005, the Ministry of I&B sent to the F.G.E.H.F. the list of journalists who had been approved by the Prime Minister for the allotment of plots in Sector G-14, Islamabad. In the said list, the petitioner's name appears at Sr. No.9. On 30.06.2005, a provisional offer of allotment (Exh.D/3) of a category-II plot measuring 356 square yards in phase-IV of the F.G.E.H.F.'s housing scheme was issued to the petitioner. As per the contents of the said letter, the petitioner was required to deposit payment for the cost of raw land along with 2% service charges. The development charges were required to be deposited subsequently.

4. Vide letter dated 02.07.2005 (Exh.D/5), the Ministry of I&B informed the F.G.E.H.F. that the petitioner was amongst five journalists, who was found to be ineligible for the allotment of a plot. The said letter also shows that the allotment letters have been issued to 171 journalists. The plot for which a provisional offer had been made to the petitioner was required to be allotted to another journalist named in the said letter.

5. On 02.07.2005, the petitioner submitted a representation (Mark-C) to the President of Pakistan seeking the issuance of an allotment in his favour. After the petitioner did not receive any response to his subsequently representations (Marks-D.E.F. and G.), he, on 02.02.2013 filed a suit for declaration and mandatory injunction against the F.G.E.H.F. and the Ministry of I&B praying for a declaration to the effect that he is entitled to the allotment of a plot in the scheme announced by the F.G.E.H.F. in 2004.

6. The F.G.E.H.F. contested the suit by filing its written statements. Vide order dated 07.05.2013, the Ministry of I&B (respondent No.2) was proceeded against *ex parte*. From the divergent pleadings of the contesting parties, the learned Civil Court, vide order dated 28.05.2013 framed the following issues:-

- "1. *whether the plaintiff is entitled for decree of declaration and mandatory injunction as prayed for? OPP*
2. *whether all the plots from journalists quota have been allotted upon the recommendation of Ministry of Information and the name of the plaintiff has not been recommended for allotment of plot? OPD*
3. *whether the suit of plaintiff is not maintainable under the law? OPD*
4. *whether the plaintiff has no cause of action and locus standi to file the instant suit? OPD*
5. *Relief."*

7. The petitioner appeared as PW-3 whereas his colleagues Syed Bashir Ahmed Sultan and Wajeesh Ahmed Siddiqui appeared as PW-1 and PW-2, respectively, and deposed *inter alia* that the petitioner was a full-time journalist. Zaheer Ahmed, Assistant Record Keeper appeared as DW-1.

8. Vide judgment and decree dated 18.04.2016, the said suit was dismissed by the learned Civil Court. The petitioner's appeal against the said judgment and decree was dismissed vide judgment and decree dated 08.11.2016. The said concurrent judgments and decrees have been assailed by the petitioner in the instant civil revision petition.

9. The Executive Committee of the F.G.E.H.F., in its 86th meeting held on 29.03.2006, decided *inter alia* not to revise/interfere in the policy and criteria laid down by the Ministry of I&B for the allotment of plots against the quota reserved for journalists as the same had already been approved by the Prime Minister's Secretariat. Furthermore, it was decided that *"if Ministry of Information decides that any recommendation was not based on the policy/criteria and ask for cancellation, then such provisional offer letter shall be withdrawn/cancelled."* The said decision was brought to the notice of the Hon'ble Supreme Court during the proceedings in Civil Petition No.185/2006. Vide order dated 28.09.2006, the Hon'ble Supreme Court, after making reference to the said decision observed that the cases of the petitioners in that case be considered in view of the said policy of the F.G.E.H.F.

10. Learned counsel for the petitioner submitted that after the petitioner's application for the allotment of a category-II plot in the F.G.E.H.F.'s housing scheme in Sector G-14 Islamabad was approved, a provisional offer of allotment was issued to the petitioner; that strong

vested rights were created in the petitioner's favour when the provisional offer of allotment was issued to him; that the petitioner had deposited Rs.1,01,000/- along with his application for the allotment of a category-II plot; that the petitioner was a seasoned journalist and had done his M.A. in journalism from the University of the Punjab; that the petitioner had joined the profession of journalism in the year 1969 and had remained a columnist for various magazines of high standards; and that the petitioner had authored more than a dozen books and had been an Editor of periodicals in the newspapers.

11. Learned counsel for the petitioner further submitted that the respondents had allotted plots to journalists without an objective selection criteria; that the allotments had been made on political basis to journalists, who were favourable to the government; that the petitioner had been discriminated against and treated unfairly; that the learned Courts below erred by not appreciating that the petitioner was eligible for allotment of a plot; that the decision taken by the Executive Committee of the F.G.E.H.F. in its 86th meeting did not absolve the Court from its responsibility to determine whether there were any valid grounds for cancelling the offer of allotment of a plot made to the petitioner; that the Ministry of I&B's letter dated 02.07.2005 to the F.G.E.H.F. does not provide as to how the petitioner did not meet the eligibility criteria; and that the learned Courts below erred by not appreciating that the F.G.E.H.F. acted in a mechanical manner by not allotting a plot to the petitioner on the basis of unreasoned letter dated 02.07.2005. Learned counsel for the petitioner prayed for the instant petition to be allowed and for the concurrent judgments and decrees passed by the learned Courts below to be set aside.

12. On the other hand, learned counsel for the F.G.E.H.F. submitted that the F.G.E.H.F. did not commit any illegality by not allotting a plot to the petitioner since the Ministry of I&B had found that the petitioner was not eligible for the allotment of a plot; that the F.G.E.H.F. did not have a criteria of its own for allotting plots reserved for journalists; that the Executive Committee of the F.G.E.H.F., in its 86th meeting held on 29.03.2006, decided *inter alia* that the policy and criteria laid down by the Ministry of I&B for the allotment of plots reserved for journalists

would not be revised or interfered with; that since vide letter dated 02.07.2005 the Ministry of I&B informed the F.G.E.H.F. that the petitioner had been found not to be eligible for the allotment of a plot, the F.G.E.H.F. did not allot a plot to the petitioner; and that had the Ministry of I&B not called upon the F.G.E.H.F. to cancel the plot offered to the petitioner, an allotment letter would have been issued to the petitioner. Learned counsel for the F.G.E.H.F. prayed for the instant petition to be dismissed.

13. The learned Assistant Attorney-General submitted that the Ministry of I&B was a necessary party and therefore had been impleaded as respondent No.2 in the suit; that since vide order dated 07.05.2013 the Ministry of I&B was proceeded against *ex parte*, the reasons as to why the petitioner did not fulfill the eligibility criteria for the allotment of a plot against quota reserved for journalists were not brought on the record; and that it would be in the fitness of things, if this matter is remanded to the learned trial Court so as to give an opportunity to the Ministry of I&B to file a written statement.

14. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance. The facts leading to the filing of the instant petition have been set out in sufficient detail in paragraphs 2 to 8 above and need not be recapitulated.

15. The sole question that needs to be determined is whether it was lawful for the Ministry of I&B to have informed the F.G.E.H.F. that the petitioner was not eligible for the allotment of a plot reserved for journalists in the F.G.E.H.F.'s housing scheme in sector G-14, Islamabad. The advertisement dated 20.02.2004 issued by the Ministry of I&B sets out the eligibility criteria for the applicants for the allotment of plots reserved for journalists. The said criteria is reproduce herein below:-

- "1. *The applicant must be a full time employee of a newspaper/periodical or news agency, or an establishment free-lance journalist accredited to the Press Information Department with at least 25 years' professional standing.*
2. *Journalism must be his/her full time occupation.*
3. *He/she must have minimum of 15 years of continuous service in journalism.*
4. *He/she must be based in Islamabad/Rawalpindi.*

5. *He/she his/her spouse/dependent children must not have ever been allotted by CDA or any other government agency, a plot, house or apartment in Islamabad/Rawalpindi (affidavit to be given).*
6. *He/she must be employed by a publication, which is a member of APNS except in case of a news agency.*
7. *The applicant employing in the publication, his/her name must be included in the Central Media List maintained by the Ministry of Information and Broadcasting."*

16. Indeed, the Executive committee of the F.G.E.H.F., in its 86th meeting held on 29.03.2006, had decided *inter alia* that the policy and criteria laid down by the Ministry of I&B for the allotment of plots to journalists would not be revised or interfered with and that if the Ministry of I&B asks for the cancellation of an offer letter on the ground that the recommendation for allotment was not based on the policy/criteria, the provisional offer would be cancelled. The order dated 28.09.2006 passed by the Hon'ble Supreme Court in Civil Petition 185/2006 shows that the said decision of the Executive Committee of the F.G.E.H.F. had been brought to the notice of the Hon'ble Supreme Court. In the said order, the Hon'ble Supreme Court observed that the cases of the petitioners in that case be considered in view of the policy.

17. The decision dated 29.03.2006 taken by the Executive Committee of the F.G.E.H.F. read with the said order dated 28.09.2006 show that the F.G.E.H.F. did not have a say in formulating a policy or criteria for the allotment of plots to journalists or to determine which applicant/journalist would be awarded a plot. All this was for the Ministry of I&B to determine.

18. The F.G.E.H.F. admittedly did not issue an allotment letter to the petitioner because the Ministry of I&B in its letter dated 02.07.2005 to the F.G.E.H.F. had informed the latter that the petitioner was not eligible for the allotment of a plot reserved for journalists. The said letter does not provide as to which condition or criteria set out in the advertisement dated 20.02.2004, the petitioner did not fulfill. It was an obligation on the Court to have determined the legality of the Ministry of I&B's letter dated 02.07.2005 which does not specify the precise condition or criteria, which the petitioner did not fulfill. Since the Ministry of I&B had not filed a written statement, and had been proceeded against *ex parte* vide order dated 07.05.2013, it was not known as to how the petitioner was found not to be eligible for the allotment of a plot.

19. Having gone through the impugned judgments and decrees, I cannot help, but observe that the learned Courts below have endorsed the view point of the F.G.E.H.F. that a plot can be allotted to a journalist or a plot allotted to a journalist can be cancelled if the Ministry of I&B decides so. Since the eligibility criteria for the allotment of a plot was clearly set out in the advertisement dated 20.02.2004 issued by the Ministry of I&B, it is my view that it was necessary for the Ministry of I&B to specify as to which of the eligibility condition had not been satisfied by an applicant to whom a provisional offer of allotment had been made, when asking the F.G.E.H.F. to withdraw such offer of allotment. In the case at hand, the Ministry of I&B in its letter 02.07.2005 simply informed the F.G.E.H.F. that the petitioner was *“not eligible for allotment of plot”*. No reason was given as to why he was not eligible. The learned Courts below failed to exercise their jurisdiction by not determining this vital aspect of the case.

20. In view of the above, the instant petition is allowed and the concurrent judgments and decrees dated 18.04.2016 and 08.11.2016 are set aside; the matter is remanded to the learned Civil Court with the direction to summon the representative of the Ministry of I&B as a Court witness and ascertain as to which particular eligibility condition the petitioner did not fulfill and the reasons for such finding. There shall be no order as to costs.

**(MIANGUL HASSAN AURANGZEB)
JUDGE**

ANNOUNCED IN AN OPEN COURT ON ____/2020

(JUDGE)

*Qamar Khan**

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