

Chandigarh Right to Service Commission
(Chandigarh Administration)
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No. PS/CRTSC/2022/41-45
Petition No. 03 of 2022

Dated:- 31.03.2022

Sh. Mukesh Kumar Goyal

Vs.

Designated Officer-cum- concerned Branch Incharge,
Estate Office, U.T. Chandigarh

ORDER

A petition/application dated 24.02.2022 was filed by Sh. Mukesh Kumar Goyal, General Power of Attorney (GPA) of Lakhbir Singh & Others, stating therein that the Estate Office is not taking action on his request for calculation and intimation of pending dues in respect of Booth No. 2, Sector 44-C & D, Chandigarh.

2. Brief facts of the case are that Booth No. 2, Sector 44-C & D, Chandigarh was sold in open auction held on 26.02.1991 at a premium of Rs. 5,46,000/- on lease-hold basis for 99 years. The allotment of the Booth was cancelled on 07.04.1993 on account of non-payment of the premium.

3. Thereafter the case was contested by the allottee up to the Hon'ble Supreme Court of India and on the directions of the Hon'ble Courts, the Sub-Divisional Magistrate (South) exercising powers of the Estate Officer, U.T. Chandigarh vide his order bearing Endorsement No. 212/SDM (S)/CPL-5008/2020 dated 21.12.2020 set aside the cancellation order dated 07.04.1993 and restored the site to the owners/lessees subject to the conditions that the owners/lessees will deposit the entire outstanding dues

within two months, failing which the earlier order of the Estate Officer regarding cancellation of allotment shall be operative. In this order, the Estate Officer also directed the SEO/SO(CIA-1) of the Estate Office to calculate the outstanding dues in respect of Booth No. 2 Sector 44-C & D, Chandigarh (CPL/5008) as per the orders dated 27.01.2012 of the Hon'ble Punjab & Haryana High Court, Chandigarh in CWP No. 4908 of 1993, within 15 days from the date of receipt of his order and to convey the same to the owners/lessees by way of demand notice as per Hon'ble Punjab & Haryana High Court directions.

4. When the Designated Officer-cum-Branch Incharge/SEO/SO (CIA-1) in the Estate Office failed to comply with the orders dated 21.12.2020 of the SDM (South)/Estate Officer, within the given time period of 15 days, the petitioner submitted a reminder to the Estate Officer, Estate Office, Sector – 17, Chandigarh for doing the needful. However, when the Designated Officer failed to provide the service to the petitioner even within the stipulated time period of 35 days as per Notification No. 28/67/1-IH(11)-2020/10872 dated 08.10.2020 as well as Notification No. 28/67/1-IH-2022/3946 dated 08.03.2022 (under the Right to Service Act) of the Chandigarh Administration, the applicant feeling aggrieved filed the present petition before this Commission.

5. On receipt of the petition, the Commission by taking *suo moto* action under Section 17 of the Punjab Right to Service Act 2011 as extended to the U.T. of Chandigarh by the Govt. of India, Ministry of Home Affairs vide Notification No. G.S.R. 1015(E) dated 14.08.2017, issued a Show Cause Notice to the Designated Officer-cum-concerned Branch Incharge, Estate Office U.T. Chandigarh vide No.

PS/CRTSC/03/2022/27 dated 03.03.2022 calling upon to Show Cause as to why penal action should not be taken against him as per provisions of the Punjab Right to Service Acts 2011 and 2014 as extended to the U.T. of Chandigarh. The Designated Officer was inter-alia directed to appear (in person) before the Commission on 17.03.2022 at 10:30 a.m. alongwith complete record of the case as well as reply to the Show Cause Notice. The petitioner was also directed to appear before the Commission on the said date and time.

6. The case could not be taken up on 17.03.2022, as neither the Designated Officer-cum-concerned Branch Incharge, Estate Office nor the petitioner turned up at the given time. However, keeping in view the principles of natural justice, another opportunity was afford and the case was adjourned to 29.03.2022 at 10:30 a.m.

7. On 29.03.2022, both the petitioner as well as the respondent appeared. The respondent/Branch Incharge-cum-Designated Officer of the Estate Office also filed written submissions in reply to the Show Cause Notice.

8. I have heard both the parties and also gone through the written submissions made by the respondent/Designated Officer-cum-Branch Incharge, Estate Office. It is apparent from record that the case of the petitioner had been hanging fire since 1993 and it went even up to the level of Hon'ble Supreme Court of India; and it is only after directions of the Hon'ble Courts that the Sub-Divisional Magistrate (South) exercising powers of the Estate Officer, U.T. Chandigarh vide his orders bearing Endorsement No. 2122/SDM (S)/CPL-5008/2020 dated 21.12.2020 set aside the cancellation order dated 07.04.1993 and restored the site to the owners/lessees subject to the conditions that the owners/lessees will deposit the entire outstanding dues within two

months, failing which the cancellation order of the Estate Officer shall be operative. In this order, the Estate Officer had also directed the SEO/SO(CIA-1) of the Estate Office to calculate the outstanding dues in respect of Booth No. 2 Sector 44-C & D, Chandigarh (CPL/5008) as per orders dated 27.01.2012 of the Hon'ble Punjab & Haryana High Court, Chandigarh in CWP No. 4908 of 1993, within 15 days from the date of receipt of his order, and to convey the same to the owners/lessees by way of demand notice. It is further seen from the record that even after a period of more than one year, neither the outstanding dues have been calculated nor intimated to the allottee/petitioner.

9. Explanation for the delay as given by the Designated Officer/Branch Incharge Estate Office in his written submissions is as under:

".....The concerned file remained under consideration/examination with the legal cell, accounts wing and higher officers and finally received back after the approval on 03.03.2022. Thereafter calculation prepared by the concerned accountant and got checked by internal audit cell and outstanding dues found thereupon has been intimated to the party vide letter dated 16.03.2022 and further dues intimated on 25.03.2022 after adjusting DDs amounting to Rs. 609500/- from the date of restoration of site....."

The above explanation is not tenable for the simple reason that when clear orders for calculating the dues had already been passed by the Estate Officer himself, what more examination of the file or approval of the higher authorities was required?

10. Another explanation given by the Branch Incharge is that in routine cases he has been providing the service to the public within the stipulated timeline; however, in this case, the litigation had been going on since 1993 and finally decided in 2020

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only, and as such, the decision to be taken on the final order was not within the competence of the Branch Incharge.

The above explanation is also not acceptable for the same reason that the higher authority in the Estate Office is Estate Officer only, and the order dated 21.12.2020 with regard to calculation of the outstanding dues and intimation thereof to the allottee, had been given by the Estate Officer himself and none else !

11. The third and final submission of the applicant is:

" the applicant has not availed the relevant remedy such as appeal and revision before filing the present application before this Hon'ble Commission as such it is requested that the present complaint may kindly be dismissed....."

The above contention of the Designated Officer/ Branch Incharge is also not tenable because as per provisions of Section 17 (1) (b), the Commission may :-

"..... take suo moto notice of failure to deliver service in accordance with this Act and refer such cases for decision to the First Appellate Authority or the Second Appellate Authority or pass such order itself as may be appropriate....."

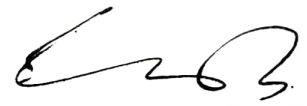
12. After having gone through the facts and circumstances of the case, written submissions of the Designated Officer/ Branch Incharge as well as record of the case file, I am of the considered opinion that the Branch Incharge/Designated Officer has been adopting dilatory tactics in one way or the other and dealing with the case in a most callous manner with scant regard to the fact that the petitioner/ allottee has been running from pillar to post since 1993 to get justice in the matter; and, as a result, he has failed to provide the service to the petitioner/ applicant without sufficient and reasonable cause, and hence he very well deserves the imposition of a strict penalty.



Therefore, as per provisions of Section (2) (h) of the Punjab Right to Service (Amendment) Act 2014, I hereby impose a penalty of Rs. 10,000/- (Rupees Ten Thousand only) on the Designated Officer/Branch Incharge, Estate Office, U.T. Chandigarh; it is further ordered that 90% viz. Rs. 9000/- (Rs. Nine Thousand only) of the penalty amount so imposed, shall be given as compensation to the petitioner Sh. Mukesh Kumar Goyal, General Power Attorney of Lakhbir Singh & Others.

14. The Estate Officer-cum-Second Appellate Authority is also directed to initiate an inquiry against other officials of the concerned branches viz. Audit/ Accounts etc. who have contribute to the delay in calculation of the pending dues of the petitioner, or otherwise; and take disciplinary action against them accordingly,

14. Orders as above.


K.K. Jindal, IAS (R)
Commissioner

A copy is forwarded for information and necessary action to :

1. Estate Officer-cum-Second Appellate Authority under the Right to Service Act, U.T. Chandigarh; for recovery of penalty from the Designated Officer/ Branch Incharge and payment of compensation to the petitioner/ applicant, he may refer to Rule 12 of the Chandigarh Right to Service Rules, 2019 as notified vide Notification No. 28/67/1-IH(11)-2019/15461 dated 11.10.2019
2. Assistant Estate Officer-cum-First Appellate Authority under the Right to Service Act, U.T. Chandigarh
3. Designated Officer-cum-concerned Branch Incharge, Estate Office, U.T. Chandigarh
4. Sh. Mukesh Kumar Goyal, General Power of Attorney (GPA) of Lakhbir Singh & others, Booth No. 6, Sector 44-C, Chandigarh
5. The Administrative Officer-cum-Registrar, CRTSC with the directions to consign the file to record