

**Chandigarh Right to Service Commission
(Chandigarh Administration)**

(Nagar Yojana Bhavan, C- Wing, Sector 18-A, Madhya Marg, Chandigarh -160018)

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SUO MOTO CASE NO. 7 OF 2020

Attinder Pal Singh

Versus

**Designated Officer-cum-Accounts Officer,
Chandigarh Housing Board**

ORDER

Brief facts of the case are that one Sh. Attinder Pal Singh son of Sh. Surinder Singh had bought a Dwelling Unit (House No. 5525, Sector 38 West, Chandigarh) by way of E-auction from the Chandigarh Housing Board in December, 2017

2. After having cleared all the dues, he applied for conversion of the said house from lease hold to free hold but till date the Chandigarh Housing Board had not done the needful in the matter even after lapse of a period of more than 01 year and some months.

3. Vide his letter/ email dated 04th March 2020, the applicant/ petitioner made a complaint to the Chandigarh Right to Service Commission, stating therein that although the Chandigarh Housing Board had not converted his house from lease hold to free hold yet they were asking for some additional ground rent to process the case



whereas he had already cleared all the dues while applying for conversion to free hold on 25.10.2018

4. On examination of the case, it was noted that as per Sr. No. 181 of the list of Public Services (conversion from lease hold to free hold in respect of dwelling units) notified by the Chandigarh Administration vide Notification No. 28/67/1-IH(11)-2019/ 14032 dated 13.09.2019, the requisite service is to be provided to the applicant/ complainant by the Designated Officer within a period of 30 days from the date of submission of the application. The case of the applicant was therefore referred to the Secretary, Chandigarh Housing Board (being the First Appellate Authority under the Right to Service Act) vide this Commission letter dated 18.03.2020 for taking necessary action in the matter within the prescribed time limit of 30 days under intimation to the Commission.

5. However, when no action was taken by the Secretary, Chandigarh Housing Board (being the First Appellate Authority) in the matter even after lapse of 3-4 months, the Commission took suo-moto cognizance of the matter on 16.07.2020 and in terms of provisions contained in Section 17(1)(b) and Section 17(1) (3) of the Right to Service Act, directed the Designated Officer-cum-Accounts Officer as well as the First Appellate Authority-cum-Secretary, Chandigarh Housing Board to appear before the Commission on 23rd July 2020 at 10:30 am along with all the files/ records pertaining to the case referred to above.

6. In the meantime, vide orders dated 17th July, 2020 (a copy of which was endorsed to this Commission also) the Secretary, Chandigarh Housing Board stated that since functioning of the office of Chandigarh Housing Board remained irregular due to Covid-19 related issues, the complaint in question could not be processed in time. It was further mentioned in the said order that the complainant Sh. Attinder Pal



Singh had appeared before her on 02nd July, 2020 when he was heard. Operative part of the said orders is reproduced below:-

".....The Complainant Sh. Attinder Pal Singh submitted that his application for conversion of his dwelling unit No. 5525, Sector 38W, Chandigarh dated 25.10.2018 inordinarily delayed by the designated officer which is causing demand of ground rent considering the intervening period without any fault of the complainant. Accounts Officer-II (Designated Officer) submitted that said dwelling unit was purchased by the complainant through e-auction. In normal course the dwelling units allotted through draw etc. by the Chandigarh Housing Board are processed for conversion from lease hold to free hold but there were only few cases where such requests were received from the applicants who purchased their property through E-Auction mode. There were certain policy related issues for which the matter was taken up with the Estate Office and thereafter with the Secretary Housing, Chandigarh Administration for certain clarifications. The main issue was that in view of the substantial annual ground rent the conversion charges as per given formula may not be applicable and it may lead to some financial loss. After lot of persuasion at the higher level the matter could be resolved in the month of January, 2020 and thereafter the pending case of the complainant was processed. However, at the time of finalization of the case the complainant was required to pay the ground rent upto the date of conversion but he is insisting not to charge ground rent for the delayed period because there is no fault on his part



The undersigned went through the complaint and available record and after hearing the complainant and the designated officer is of the view that though a delay has taken place in the matter but it was beyond the control of the designated officer. Certain clarities were needed to finalise the case of the complainant for which sincere efforts were made by the designated officer and also by the higher authorities.

In view of above, the designated officer is directed to complete the process within 7 working days after payment of requisite charges and submissions of requisite documents by the applicant/ complainant....."

7. On the said date i.e. 23rd July, 2020 the petitioner Sh. Attinder Pal Singh as well as the respondents, namely, Sh. Joginder Singh, Designated Officer-cum-Accounts Officer and Ms. Ruchi Singh, First Appellate Authority-cum-Secretary, Chandigarh Housing Board appeared before the Commission at the appointed time. Both the parties were heard. On request, the case was adjourned to 04.08.2020 when both the parties again appeared and made their verbal as well as written submissions which were taken on record.

8. I have carefully gone through the records of the case and also considered the written as well as verbal submissions of both the parties. I observe that there is some substance in the contention of the First Appellate Authority-cum-Secretary, Chandigarh Housing Board that there were only a few such dwelling units which were sold by the Chandigarh Housing Board by way of e-auction for the first time, and in such cases, certain policy related issues were involved with regard to the charges for conversion from lease hold to free hold; the

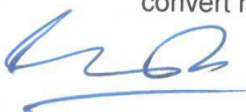


petitioner's was one such case; that is why, Chandigarh Housing Board had to take up the matter with the Estate Office and subsequently with the Secretary Housing, Chandigarh Administration, for certain clarifications. Although the Chandigarh Housing Board had been issuing reminders to the Estate Office from time to time yet the final clarification was received in the month of January 2020 only and thereafter the pending case of the petitioner was processed. Meanwhile, the dues to be paid by the petitioner kept on mounting as the ground rent is required to be paid by 10th January of every year in advance, and when such dues are not paid on time, a penal amount of 24% is also charged over and above the amount of ground rent, that is to say, although the case of the petitioner was pending for processing for want of clarification from the Chandigarh Administration yet the ground rent for the year 2019 became due on 10.01.2019; similarly the ground rent for the year 2020 became due by 10th of January 2020. As the requisite ground rent was not paid by the petitioner on the said dates, a penal amount of 24% over and above the ground rent also became leviable as per the terms and conditions of allotment of the said dwelling unit.

9. On the other hand, the grievance of the petitioner is also genuine because he had cleared all the pending dues when he applied for conversion from lease hold to free hold on 25.10.2018. There is a lot of force in the petitioner's contention that if there has been delay in the processing of his case by the Chandigarh Housing Board for want of whatsoever clarification from the Chandigarh Administration, why should he be penalized with the additional amounts of ground rent and consequently the penalty thereon for the years 2019 and 2020.



10. Although, I am in full sympathy with the grievance of the petitioner yet I am constrained to say that it is beyond the purview of this Commission to comment upon the legality or justification on the part of the Chandigarh Housing Board to levy ground rent and penalty for the years 2019 & 2020 on the petitioner. The limited scope of the Right to Service Act is to see whether there has been any delay or not on the part of any official in processing/ providing the public service(s) as mentioned in the Notification No. 28/67/1-IH(11)-2019/ 14032 dated 13.09.2019 of the Chandigarh Administration. In the instant case, although the application for providing of a public service viz. conversion from lease hold to free hold in respect of the dwelling unit in question had been made by the petitioner to the Chandigarh Housing Board as far back as 25.10.2018 yet the Commission cannot take cognizance of the matter for the period prior to 13.09.2019, that is to say, the date of notification of public services by the Chandigarh Administration. Further, perusal of the case file record after September 2019 reveals that Chandigarh Housing Board had sent another reminder to the Chandigarh Administration for clarification in the matter on 16.10.2019; a letter was received from the Estate Office on 26.11.2019 for a meeting on the subject on 02.12.2019; again a reminder was sent by the Chandigarh Housing Board to Chandigarh Administration on 13.12.2019 for further clarification; on 30.12.2019, the applicant/ petitioner was also intimated that his case was pending with the Chandigarh Administration; final clarification in the matter was received vide letter dated 14.01.2020 of the Chandigarh Administration by the Chandigarh Housing Board on 20.01.2020; thereafter, the case of the petitioner was processed and he was intimated about the dues on account of ground rent and penalty for the years 2019 & 2020 to enable the Chandigarh Housing Board to convert his dwelling unit from lease hold to free hold. In short, there has been no



deliberate or intentional delay on the part of the Designated Officer-cum-Accounts Officer in processing the case of the petitioner and as such I shall refrain from imposing any penalty on the said officer in this regard, and I do so accordingly.

11. However, last but not the least, considering all the facts and circumstances of the case, and in the larger interest of justice, I would like to urge the competent authority in the Chandigarh Housing Board that if the petitioner makes a formal request for waiver of ground rent and penalty for the years 2019 and 2020, the same should be considered sympathetically, for the simple reason that for whatever reasons the delay has occurred on the part of the Chandigarh Housing Board in processing the conversion case, none of those reasons is attributable to the petitioner, and this being so, he does not deserve levy of any ground rent and/ or penalty for the years 2019 & 2020 !

12. Orders accordingly.

Dated : 06.08.2020



K.K. Jindal, IAS (R)
Commissioner