

(2011) 09 P&H CK 0080
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 677 of 2011

Bharat Bhushan

APPELLANT

Vs

Union Territory and Another

RESPONDENT

Date of Decision : 12-09-2011

Acts Referred:

Citation : (2011) 09 P&H CK 0080

Hon'ble Judges : Jaswant Singh, J; Hemant Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—Present appeal arises out of an order dated 29.01.2009 passed by the learned Single Judge of this Court whereby a writ petition bearing CWP No. 7319 of 2007 filed by the Appellant claiming allotment of a site under the scheme known as "The allotment of Sites on Lease Hold Basis to Auto Spare Parts Dealers and Auto Repair Mechanics in Chandigarh Scheme, 1999" (hereinafter to be referred as "1999 Scheme") was dismissed.

2. The Appellant is owner of SCF No. 41, Sector 21-C, Chandigarh wherein he is carrying on the business of Auto Spare Parts. In the year 1999, the Chandigarh Administration framed the 1999 Scheme to stop the misuse of the commercial premises and to rehabilitate the Dealers, who were carrying on the business of Auto repairs in the commercial premises and at public sites not meant for such purposes. One of the conditions of the said Scheme is that if a person, who is already running business of Auto Repairs/Spare Parts in the site/shop meant for such a purpose, shall not be eligible for allotment.

3. Since the Appellant is a owner of the shop and is carrying on the business of Auto Repairs/Spare Parts in the said shop, which is permitted to carry such trade, the claim of the Appellant for allotment of the alternative site was rejected. Learned Single Judge has upheld the decision dated 17.7.2006 (P.13) of the Chandigarh Administration and also ordered that no penal action, whatsoever,

shall be taken against the Appellant for the reasons that the sale of auto-spare parts is being conducted from the premises owned by the Appellant.

4. The only argument raised by learned Counsel for the Appellant is that in the year 1997, when survey was conducted, the Appellant was found to be eligible for alternative site. In the year 1997, the building of the Appellant could not be used for semi-industrial general i.e for the sale of Auto Parts, thus his rights were crystallized at the time of survey and he is eligible for allotment of alternative site.

5. We do not find any merit in the argument raised by learned Counsel for the Appellant. The fact remains that at the time of allotment under the 1999 Scheme, the premises owned by the Appellant are permitted to be used for the sale of Auto & Spare Parts. The premises are meant for the trade of Semi-Industrial General, which includes the sale of Auto & Spare Parts. In terms of Clause 4(i) of 1999 Scheme, the Appellant is not entitled to allotment of alternative site as he is the owner of a site, where the business of Spare Parts can be conducted. No right much less any vested right can be claimed to have accrued merely on the basis of survey conducted for allotment.

6. In view of the said fact, we find no illegality or perversity in the impugned order passed by the learned Single Judge.

Dismissed.