

(2014) 04 P&H CK 0139

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 7683 of 2014 (O and M)

Mangal Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 25-04-2014

Acts Referred:

Citation : (2014) 04 P&H CK 0139

Hon'ble Judges : Surya Kant, J; Lisa Gill, J

Bench : Division Bench

Advocate : Parminder Singh Sekhon, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Lisa Gill, J.—The petitioners, in this case, have prayed for quashing of order dated 27.06.2013 passed by the Chief Administrator, GMADA, SAS Nagar, wherein their claim for allotment of two booth sites has been rejected.

2. Petitioners No. 1 and 2, who are husband and wife, are alleged to have been doing their work at two separate kiosks in Janta Market, Phase 3B1, SAS Nagar, Mohali namely at kiosk No. 173 and 153, respectively.

3. In the year 1998, PUDA (now GMADA) had got a spot survey conducted in order to convert the unauthorised and unplanned shops into an authorised market. In the said survey, it was found that there were 322 illegal khokhas in which 378 persons were shown to be found running their business. It was decided to allot pucca booths to 322 persons by the Finance and Accounts Committee of PUDA in its 49th meeting held on 15.02.2006. This decision was reviewed on 15.07.2006 and it was decided to allot booths to all 378 persons whose names had appeared in the survey list of 1998. Thereafter, a public notice was issued by GMADA on 31.05.2007 in which it was mentioned that the draw of lots shall be conducted on 15.06.2007. The name of petitioner No. 1 figured at serial No. 173 and that of petitioner No. 2 at serial No. 153. However, on 01.06.2007 a fire broke out in the market destroying kiosks. The said kiosks

alongwith others are stated to have been lost in a fire, which broke out in the Janta market on 01.06.2007. Petitioners No. 1 and 2 were given separate cheques of Rs. 25,000/- by way of interim relief. The draw scheduled for 15.06.2007 was cancelled and a public notice was issued on 30.08.2007 inviting applications for allotment of booths, in response whereof 422 applications were received. As the number of claims exceeded the earlier verified claims, a Scrutiny Committee was constituted to verify the laid claims and as per a meeting held on 17.02.2008 it was decided that only one booth should be allotted to one family unit. The relevant extract of the decision dated 17.02.2008 is reproduced as hereunder:-

Thereafter the matter was discussed in detail. After considering all these issues Hon"ble Chief Minister decided that the following principle should be followed for allocation of booths. All 378 persons should be treated at par. Husband-wife and minor children should be considered for one family unit. Only one booth should be allotted to one family unit. Keeping in view the intermediate lapse of ten years between the survey and the rehabilitation, it was decided that all the claims should be examined as per the above principle as one present date.

(emphasis supplied).

4. Petitioners No. 1 and 2 were jointly allotted one booth No. 223-C vide Letter of Intent dated 09.01.2009.

5. Aggrieved by the same, petitioners No. 1 and 2 alongwith petitioners No. 3 and 4, who are their sons, had approached this Court by way of filing CWP No. 2973 of 2009.

6. The said writ petition was decided vide order dated 03.08.2012 and the matter was remitted to respondent No. 2 to consider the case of the petitioners in the light of the policy and the written statement filed in the Court specifically in terms of para 2 (xxiv) of the reply of GMADA and to take a decision about re-allotment of separate booths to the petitioners.

7. The Chief Administrator, GMADA in compliance to order dated 03.08.2012 rejected the claim of the petitioners vide order dated 27.06.2013 (Annexure P-9), which is subject matter of challenge in this writ petition.

8. It is urged by learned counsel for the petitioners that as petitioners No. 1 and 2 were having two separate kiosks and were running their business separately, thus, they are entitled to allotment to two booths instead of one booth which has been allotted to them jointly. It is also contended that in view of order dated 03.08.2012 in CWP No. 2973 of 2009, the impugned order dated 27.06.2013 is illegal and is liable to be set aside as the petitioners have been held entitled to allotment of separate booths.

9. There can hardly be any quarrel that the action of the authorities to allot booths to those affected by the fire is clearly an effort and a measure to rehabilitate those adversely affected due to an unfortunate circumstance. A

decision had been taken by the authorities that only one booth should be allotted to one family unit. A husband and wife and minor children are to be considered as one family unit. It is in the face of this policy decision that petitioners No. 1 and 2 were allotted one booth jointly.

10. The record of CWP No. 3973 of 2009 (Mangal Singh and others versus State of Punjab and others) was called for and the reply to para 2 (xxiv) referred to in the order dated 03.08.2012 is reproduced hereunder:-

xxxiv) That in reply to para (xxiv), the allotment is admitted. The petitioners have no locus standi to challenge the same. As regard the allegation of allotment of booth to husband and wife, it is submitted that during the draw of lot it was stated that the list of 369 persons is tentative and allotment will be made as per policy. The cases which came to the notice after allotment, the action is being initiated for allotment of one booth only. The applicant of survey No. 145 and 208, showed their willingness for getting one booth as per the policy being husband and wife and the action is being taken for allotment of one booth. Rakesh Kumar and Smt. Nisha Devi are husband and wife having survey No. 154 and 266 and action is being initiated for allotting one booth. It is correct that where the khokhas were acquired and husband and wife acquired separate khokhas, separate allotment is being made to them.

11. This Court vide order dated 03.08.2012 in CWP No. 2973 of 2009 after referring to the admission made in the reply to para 2 (xxiv), had remitted the matter for a fresh consideration in the light of the policy and the written statement filed in the Court. As per the policy, the husband, wife and minor children are to be considered as one family unit and in respect to the averments made in the reply to para 2 (xxiv), the Chief Administrator, GMADA vide impugned order dated 27.06.2013 has squarely dealt with the issue. It has been specifically stated that only one booth site No. 486 has been allotted to Rakesh Kumar and his wife Smt. Nisha Devi i.e. the couple stated to be similarly circumstanced against survey Nos. 154 and 266. It is telling that the petitioners in the present writ petition have not raised any such plea of discrimination. It is, thus, clear that there are no other instances where separate booths have been allotted to similarly circumstanced persons. In any case, any allotment contrary to the policy decision would not clothe the petitioners with an indefeasible right to seek allotment of two booths.

12. In these circumstances, a measure of rehabilitation cannot be interpreted in such a manner which makes it prone to misuse and the avowed purpose behind the measure is lost. It is an admitted fact that one booth site i.e. No. 223-C in Janta Market, Phase 3B1, SAS Nagar, Mohali already stands allotted to petitioners No. 1 and 2.

13. Petitioners No. 1 and 2, thus, do not have any vested right for allotment to two different independent booths. Petitioners No. 3 and 4, the sons of above said petitioners, are stated to have taken over the business. The Chief Administrator,

GMADA has, however, observed that Teh Bazari Tickets in respect to khoka Nos. 173 and 153 are in the names of petitioners No. 1 and 2 respectively. No right accrues to petitioners No. 3 and 4 for allotment of said booth site as well.

14. In view of above, this writ petition is dismissed.