

(2013) 09 P&H CK 0502
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2034 of 2013

M/s. Deep Chand Ranbir Singh and Others	APPELLANT
Vs	
State of Haryana and Others	RESPONDENT

Date of Decision : 18-09-2013

Acts Referred:

Citation : (2014) 173 PLR 340

Hon'ble Judges : Satish Kumar Mittal, J; Mahavir Singh Chauhan, J

Bench : Division Bench

Judgement

Satish Kumar Mittal, J.—The petitioners, who are working in New Vegetable Market, Bahadurgarh, have filed the instant petition for quashing Memo No. LA-II-2008/102121-56 dated 10.12.2008 (Annexure P-12), whereby the Haryana State Agricultural Marketing Board, Panchkula (respondent No. 2 herein) had decided to auction the shop and booth plots, which were lying vacant in the New Apple, Cotton, Grain & Vegetable Market, Bahadurgarh, in the State. They have also challenged the order dated 14.3.2012 (Annexure P-22), vide which the Chief Administrator of the respondent Board had directed the Allotment Committee to consider the eligibility of the petitioners as on 6.4.2000 for allotment of the shop plots against 37 new plots which were carved out in the year 2008. The petitioners have further challenged the proceedings of meeting of the Allotment Committee, held on 7.8.2012, in respect of New Sabzi Mandi, Bahadurgarh (Annexure P-26), vide which all the petitioners were held to be ineligible as on 6.4.2000 for allotment of the shop plots. The petitioners seek further direction to the respondents to allot them shop plots under the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 (hereinafter referred to as "the 2000 Rules"), by considering their eligibility as on 2.1.2009, the date on which the 37 newly carved out shop plots were put to public auction. Earlier, the petitioners had filed Civil Writ Petition No. 21708 of 2008 seeking direction to the respondents not to auction the aforesaid plots. But during the pendency of the said writ petition, the aforesaid order dated 14.3.2012 (Annexure P-22) was passed and meeting of the Allotment Committee was held on 7.8.2012.

Therefore, instead of allowing the petitioners to amend the said writ petition, they were permitted to file fresh petition on the same cause of action. Consequently, the instant writ petition was filed to challenge the orders passed during the pendency of CWP No. 21708 of 2008.

2. In the counter filed on behalf of respondents No. 2 and 3, the only contesting respondents, it is stated that when applications were invited for allotment of plots to the old licencees in the year 2000, petitioners No. 1, 2, 4, 5, 6, 7, 9 and 10 had applied for allotment of plots but were found to be ineligible while petitioners No. 3 and 11 did not apply and the balance plots have since been disposed of by way of open auction. Therefore, petitioners have no claim to be considered for allotment of shop-sites on reserve price.

3. We have heard learned counsel for the parties and have also examined the record.

4. Learned counsel for the petitioners has drawn attention of this Court to the order dated 5.8.2010 (Annexure P-19) passed by this Court in CWP No. 21708 of 2008, whereby after hearing arguments in the case, a direction was issued to the respondents to provide information indicating as to how many plots were carved out to be offered to the old licencees initially and how many old licencees were existing, who were to be offered the plots at that time. In response to that direction, an affidavit was filed on 8.9.2010, wherein it was admitted that only five plots were offered to the old licencees, whereas the number of old licencees was much more. It was observed in the order dated 8.9.2010 (Annexure P-20) that all the old licencees were not offered the plots. It was further noticed that 37 plots became available subsequently in the year 2008. In view of this position, learned counsel for the respondent Board sought time to have instructions as to whether the petitioners could be accommodated and allowed plots from the available 37 plots. When the matter was taken up on 14.12.2011, this Court passed the following order:--

We have heard learned counsel for the parties and are prima facie satisfied that as 37 plots have become available after allotment to eligible licencees of the Old Mandi, the respondents should have offered these plots to other licencees of the Old Mandi, who had in the meanwhile become eligible for allotment. The respondents are instead proceeding to auction these plots before accommodating old licencees. We, therefore, direct the respondent No. 2 to reconsider the matter and pass an appropriate order. It is, however, made clear to the petitioner and the respondents that in case the Market Committee decides to consider the claim of old licencees, they would be required to participate in a fresh draw of lots and shall be required to pay the prevalent current price. Adjourned to 14.02.2012.

5. Today, during the course of arguments, learned counsel for the respondent Board could not controvert the factual position that when initially the shop plots were offered to the old licensees in the year 2000, only 5 plots were offered to them, in spite of the fact that the list of eligible old licencees was much more.

Undisputedly, 37 plots, which were tried to be auctioned by public auction on 2.1.2009, came into existence in the year 2008. Against these 37 plots, claims of the old eligible licencees, who were not allotted the plots earlier, were not considered. When an earlier Market is de-notified, while floating the plots in the new Market, under the 2000 Rules, it is incumbent upon the respondent Board to consider the claims of the old eligible licencees against all the available plots. In the present case, only 5 plots were initially floated for allotment to the old eligible licencees under the 2000 Rules, in spite of the availability of the land and more number of eligible old licensees. The respondent Board could not justify or give any reason to show why the other plots were not offered at that time. Undisputedly, in the year 2008, as many as 37 new plots were carved out and those plots were tried to be sold by open auction. But the fact remains that these 37 plots were never offered to the eligible old licencees. In our opinion, there was no justification with the respondent Board to keep away these plots from the eligible old licencees and sell the same by open auction subsequently, without first offering the same to the old licencees. Consequently, the impugned Memo dated 10.12.2008 (Annexure P-12), order dated 14.3.2012 (Annexure P-22) and proceedings of meeting of Allotment Committee held on 7.8.2012 (Annexure P-26) are quashed and respondents No. 2 and 3 are directed to consider the claim of the petitioners and other eligible old licencees against the aforesaid 37 new plots under the 2000 Rules, by taking into consideration their eligibility as on 2.1.2009 (date on which these plots were decided to be auctioned). Before considering the eligibility of the old licencees for allotment against these plots, the respondent Board will invite applications with all particulars and pass separate order in the case of each applicant, after providing opportunity of hearing to the applicants. The claim of all such applicants shall be decided within a period of three months from the date of receipt of a certified copy of this order.

Disposed of in the aforesaid terms.