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IN THE HIGH COURT OF DELHI AT NEW DELHI

Pronounced On 2nd February, 2009

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W.P.(C) 3423/2001

JAMAUNAPAR FRUIT & VEG. COMSIS Petitioner
Through : Mr. Alok Kumar, Advocate

versus

GOVT. OF N.C.T OF DELHI & Ors. Respondent
Through : Mr. Sushil Salwan, Advocate for NCT
Mr. Ajay Bhatnagar, Advocate for APMC

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Mr. Justice S. Ravindra Bhat (Oral)

1. Heard learned counsel for the parties. The petitioner seeks the following reliefs :

“a. that the resolution dated 24.05.2000 passed by respondent No.2 shall be complied with an no person who have been granted licences after 25.02.1999 shall be accommodated in the provisional Sabzi Mandi at Ghazipur.

b. Direct an inquiry into the licenses granted after acquisition notification as stated above with further directions to prosecute and punish the guilty persons according to law.”

2. The petitioners aver that the Delhi Agricultural Produce Marketing (Regulation) Act,

1976 was brought into force on 05.11.1976 pursuant to which the Yamuna Par Krishi Upad Samit Shahdara Committee Bye-laws 1980 came into force on 26.02.1980. The petitioner's association is a society formed in the year 1986.

3. In 1997 land was acquired for the purpose of Delhi Metro Rail Corporation (DMRC), as a result the existing market had to be shifted. The petitioner appears to have been apprehensive at that stage that shifting of the market would result in unauthorized personnel being allotted licences and even space to operate in the newly constructed notified market area. The petitioner has contended that this apprehension was well founded and that a large number of persons who did not function on the relevant date i.e. 25.02.1999, were granted licences and after the setting up of the notified market they and others were even permitted to function there through allotment of space.

4. The respondents in the counter affidavit concede to certain irregularities which led to lodging of First Information Report (FIR) RC N.10/2003. This Court had been directing the respondents to indicate the latest status, from time to time. The status report filed by the respondent dated 21.02.2007 *inter alia* states as follows :

“6. That on 16.5.2001, Joint Secretary Delhi Agricultural Marketing Board approved allotment of auction sites in the area of 4 x 3 metres for traders (‘A’ category licence holder) and area of 4 x 4 meters for commission agents (‘B’ category licence holders) in Ghazipu Subzi Mandi for shifting and if a person has 50% or more than 50% share in more than one firm the allotment shall be made to one licence applicant firm vide his letter No.F.35/124/2000/DAMB/EM/Part file 4020 dated 16.5.01. Licences issued between 25.2.1999 to 24.5.2000 reviewed by the Government of delhi and allowed for shifting vide Vice Chairman, Delhi Agricultural Marketing Board letter No. F.15(284)/267/2003/DAMB/Mkt/1914 dt. 1.5.03.

7. That the minutes of Delhi Agricultural Marketing Board held on 24.5.2000 was circulated by Jt. Secretary, Delhi Agricultural Marketing Board on 28.6.2000 vide letter no. F.9(73)/2000/Delhi Agricultural Marketing Board/4435-59 dated 28.6.2000 and it was received in

Shahdara, Agricultural Produce Market Committee on 3.7.2000 vide diary no.2614 which was seen by J.P. Thakur and other members of allotment committee. Subsequently, Joint Secretary, Delhi Agricultural Marketing Board issued direction not to grant any fresh licence by the market committee from 24.5.2000 vide letter No.F.15(174)/156/99/DAMB/D-IV/4693 dated 7.7.2000 where new markets are being developed which was received in Agricultural Produce Market Committee Shahdara on 17.7.2000 vide diary No.2640 and Delhi Agricultural Marketing Board meeting and shifting of Shahdara Subzi Mandi was started. The number of commission agents increased from 154 on 25.2.1999 to 283 on 17.7.2000.

8.That in case of change in constitution of license firm either in case of death of partner / proprietor or change in partnership or change in constitution from proprietorship to partnership the licensee shall inform the market committee within 15 days. If the licensee fails to inform the same shall constitute a new firm which requires a fresh licence as per provision of section 71 of Delhi Agricultural Produce Marketing (Regulation) Act, 1998 read with Rule 24 of Delhi Agricultural Produce Marketing (Regulation) Act,2000.

9. That some complaints of irregularities in issuance of licences of the different firms received in Delhi Agricultural Marketing Board office which was forwarded to Public Grievances Cell, Govt. of NCT of Delhi by Joint Secretary, , Delhi Agricultural Marketing Board vide letter No.V-1301/96/2002/DAMB/VIG/85 dated 23.10.01. Enquiry was conducted by Public Grievances Cell headed by Colonel Satish Bakshi who suspected irregularities 35 files of the commission agents/firms in his report and finally P.S. Anti Corruption Branch registered above mentioned FIR on complaint of DCP Sh. Paldan, Anti Corruption Branch.

10.That on 07.03.2001 some members of the allotment sub-committee prepared a list of 27 firms who had 50% or more than 50% shares in more than one firm. But the allotment sub-committee submitted its report on 24.5.2001 making objections to 8 cases which had 50% or more than 50% shares in more than one firm. The allotment sub-committee knowing very well did not point out 19 remaining cases and favoured commission agent for wrongful gains.

11. That Anti Corruption Branch during the course of investigation found that Sh. J.P. Thakur, Secretary Agricultural Produce market Committee with officials of allotment sub-committee and commission agents entered in criminal conspiracy with each other and issued new licences in bulk by indulging in corrupt practices dishonestly and abused their official position as a public servant in violation of the norms/ instructions issued through order No. F.35(124)/2000/DAMB/ENM/Part

File/4020 dated 16.5.2001 to cause pecuniary advantages for themselves. They made allotment of shops at Ghazipur Subzi Mandi unauthorisedly in violation of Delhi Agricultural Produce Marketing (Regulation) Act, 1998 and Delhi Agricultural Produce Marketing (Regulation) General Rules, 2000.

12. That the minutes of Delhi Agricultural Marketing Board meeting on 24.05.2000 in which it was proposed that no any fresh licence be issued in Shahdara Subzi Mandi was circulated on 28.6.2000 and received in Shahdara Subzi Mandi on 3.7.2000 which was seen by Members of the Market Committee on the same day. Some members of the allotment committee between 24.5.2001 to 3.7.01 tempered with the licence files and make back dated entries/notes and changed in percentage shares of partnership firms to benefit the partnership firms of commission agents and separate shops were allotted to them at Ghazipur Subzi Mandi subsequently on fraudulent basis.

13. That on 25.2.1999 there were 154 Commission agents and 40 traders working in Agricultural Produce Market Committee Shahdara. ON 24.5.2000, the number of commissions agents increased upto 269 thereafter the allotment sub-committee issued 14 more licences to commission agents upto 17.7.2000 raising total nu. Of commission agents upto 283 whereas they knew that there is ban on issuing a fresh licence to commission agents.

14. That the then Asstt. Secretary, Agricultural Produce Market Committee, Shahdara Shri. Dharamveer Singh and Mandi Supervisor Sagar Singh Tyagi have been arrested on 18.6.2003 and freed on bail granted by the Special court of Sh. P.K. Bhasin, ASJ, Delhi.”

5. It is evident from the above stand of the respondent that even according to it serious irregularities took place which led to criminal action against the then Secretary of Market Committee. Those criminal proceedings are of course pending before the appropriate authority, but the accused appears to be enlarged on bail. However, having regard to the stand taken by the APMC and the Government of NCT of Delhi, this Court is of the opinion that the remedial action, is to be taken in accordance with law. This would necessarily extend to consideration of the licences granted between 21.05.1999 and 28.06.2000 (when the APMC issued an order banning issuance of fresh licences) and also reviewing the correctness and bona fides of

allotment of spaces made in the market Committee. Since the beneficiaries i.e. licencees or allottees are not parties to these proceedings, this Court is not passing any adverse orders. However, respondents, in view of the decision indicated by them, should take speedy steps to ensure that those who were granted licenses or space illegally or irregularly are put to notice, and after complying with fair procedure necessary action either by cancellation or recall of the orders, taken as early as possible.

6. In view of the above, the respondents APMC is hereby directed to examine each license issued and each allotment made during the relevant period and determine which of them can be sustained. The concerned parties shall be granted liberty of hearing in accordance with law against any proposed action that may be taken against them. However, the respondents shall follow the procedure as mandated in law. The entire process shall be completed as early as possible; since the market was shifted almost a decade ago, the process shall be completed preferably within a period of six months from today.

7. Till the completion of the enquiry and action pursuant to which, the respondent shall not finalise any further allotment, in favour of any one whose allotment was made during the relevant period. The respondents shall also ensure that the final report in the criminal proceedings are filed, if not already done, within a period of two months from today.

The writ petition stands disposed of in terms aforesaid.

Dasti.

**S. RAVINDRA BHAT
(JUDGE)**

FEBRUARY 02, 2009