

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.10779 of 2014 (O&M)
Date of decision: 7.4.2015**

M/s Garga Commission Agent

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Sherry K.Singla, Advocate for the petitioner.
Ms. Manisha Gandhi, Addl.A.G.Punjab.
Mr. Akshay Kumar Goel, Advocate for respondent-Mandi-Board.

Ajay Kumar Mittal,J.

1. This order shall dispose of CWP Nos.10779, 15650 and 15732 of 2014 as the issue involved in all the petitions is identical. However, the facts are being extracted from CWP No.10779 of 2014.

2. Prayer in CWP No.10779 of 2014 filed under Articles 226/227 of the Constitution of India is for quashing the orders dated 10.2.2009, 24.5.2011 and 28.2.2014, Annexures P.1, P.4 and P.7 passed by Respondent Nos.3, 2 and 1 respectively being contrary to the provisions and Rule 3 of Punjab State Agricultural Marketing Board (Sale and Transfer of Plots)

Rules, 2008 (in short, "the Rules"). Further prayer has been made for directing the respondents to allot the plot in New Grain Market, Mansa to the petitioner in pursuance to the advertisement published on 10.1.2008.

3. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner firm is a licensee under Section 10 of the Punjab Agricultural Produce Markets Act, 1961 (in short, "the Act") of Market Committee, Mansa. It is continuously doing the business of sale and purchase of agricultural produce since 2002 onwards in the Grain Market Mansa. Under Rule 3 of the Rules, plots are to be allotted to the old licensee *Arthias* who have been doing the business of sale and purchase of agricultural produce in the Old Grain Market. The petitioner in pursuance to the advertisement dated 10.1.2008 issued by Respondent No.3 applied for the plot in the New Mandi, Mansa within time. The petitioner fulfilled all the requisite conditions and was eligible for the allotment of the plot in the New Grain Market, Mansa. Vide impugned order dated 10.2.2009, Annexure P.1, the Estate Officer rejected the claim of the petitioner firm on the ground that the petitioner appeared before the allotment committee and submitted an application to withdraw its application in favour of another applicant M/s Bilas Ram Bhagwan Dass who had been allotted the plot in the New Grain Market, Mansa and therefore, the petitioner firm was not eligible for allotment of plot. Under the allotment rules, atleast two plots of lesser size can be allotted to the firms who are doing business in one premises. Aggrieved by the order, the petitioner filed appeal under Rule 12 of the Rules which was dismissed vide order dated 24.5.2011, Annexure P.4. Still not satisfied, the petitioner filed

revision petition under Section 42 of the Act which was dismissed vide order dated 28.2.2014, Annexure P.7. Hence the instant petitions.

5. We have heard learned counsel for the parties and perused the record.

6. Learned counsel for the petitioner submitted that the order dated 10.2.2009, Annexure P.1 was passed without affording an opportunity of hearing to the petitioner. The relevant documents were not taken into consideration. Consequently, the appeal and revision were also dismissed vide Annexures P.4 and P.7 respectively. It was further submitted that the impugned orders be set aside and the matter be remitted to respondent No.3 to pass a fresh order after hearing learned counsel for the respective parties.

7. On the other hand, learned State counsel supported the impugned orders and prayed for dismissal of the writ petitions.

8. The Hon'ble Apex Court in **Canara Bank v. V.K. Awasthy AIR 2005 SC 2090** while dealing with the doctrine of principles of natural justice had noticed as under:-

“8.Natural justice is another name for commonsense justice. Rules of natural justice are not codified canons. But they are principles ingrained into the conscience of man. Natural justice is the administration of justice in a commonsense liberal way. Justice is based substantially on natural ideals and human values. The administration of justice is to be freed from the narrow and restricted considerations which are usually associated with a formulated law involving linguistic technicalities and grammatical niceties. It is the substance of justice which has to determine its form.

9. The expressions “natural justice” and “legal justice” do not present a water-tight classification. It is the substance of

justice which is to be secured by both, and whenever legal justice fails to achieve this solemn purpose, natural justice is called in aid of legal justice. Natural justice relieves legal justice from unnecessary technicality, grammatical pedantry or logical prevarication. It supplies the omissions of a formulated law. As Lord Buckmaster said, no form or procedure should ever be permitted to exclude the presentation of a litigants' defence.

10. The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as audi alteram partem rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way into the "Magna Carta". The classic exposition of Sir Edward Coke of natural justice requires to "vocate interrogate and adjudicate". In the celebrated case of *Cooper v. Wandsworth Board of Works*, (1963) 143 ER 414, the principle was thus stated:

"Even God did not pass a sentence upon Adam,

before he was called upon to make his defence.

“Adam” says God, “where art thou has thou not eaten of the tree whereof I commanded thee that though should not eat”.

Since then the principle has been chiselled, honed and refined, enriching its content. Judicial treatment has added light and luminosity to the concept, like polishing of a diamond.

11. Principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.”

9. In view of the above, the impugned order dated 10.2.2009, Annexure P.1 and the appellate as well as revisional orders in all the three writ petitions passed in violation of the principles of natural justice as per law laid down by the Hon'ble Supreme Court in **V.K. Awasthy's cases (supra)** are hereby quashed. Accordingly, the matter is remitted to respondent No.3 to pass a fresh order after affording an opportunity of hearing to the respective parties, in accordance with law within a period of three months from the date of receipt of a certified copy of this order.

10. Writ petitions stand disposed of accordingly.

(Ajay Kumar Mittal)
Judge

April 07, 2015
'gs'

(Rekha Mittal)
Judge