IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10587 of 2015
Date of decision: 26.5.2015

M/s Roshan Lal Chopra and Sons
……Petitioner

Vs.

The State of Punjab and others
…..Respondents

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

Present: Mr.Baltej Singh Sidhu, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. The petitioner through the present petition filed under Articles 226/227 of the Constitution of India impugns the orders dated 8.5.2014, 25.7.2012 and 24.8.2011, Annexures P.3, P.2 and P.1 passed by respondent Nos. 1, 2 and 3 respectively, rejecting its claim for allotment of plot on reserve price in New Grain Market, Mamdot, District Ferozepur.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner was a licencee in the Old Grain Market, Mamdot, District Ferozepur. Its licence was renewed by the respondent Market Committee from time to time. The respondent floated a scheme on 25.6.2010 for allotment of plots on

preferential basis to the dealers who were doing the business in the Old Mandi. The petitioner applied for allotment of a plot. It was fully eligible for allotment of plot as it fulfilled all the terms and conditions with regard to the payment of market fee/business transacted in the last three years. For the purposes of scrutinizing the cases, an allotment committee was constituted under Rule 4(2) of the Punjab State Agricultural Marketing Board (Sale and Transfer of Plots) Rules, 1999 (in short, "the Rules"). The said committee observed that the petitioner was a licencee and was holding licence No.1110 from 23.8.2008. However, there was a gap in continuation of licence from 31.3.2006 to 23.9.2008. The firm was carrying on business without licence and therefore, the petitioner did not fulfil condition of continuity of licence for the last three years as per Rule 3(iii) of the Rules. On the basis of the recommendations made by the allotment committee, the Estate Officer – respondent No.3 passed order dated 24.8.2011, Annexure P.1 rejecting the claim of the petitioner. Aggrieved by the order, the petitioner filed appeal before respondent No.2 which was also dismissed vide order dated 25.7.2012, Annexure P.2. Still not satisfied, the petitioner filed revision petition before respondent No.1, which was also dismissed vide order dated 8.5.2014, Annexure P.3. Hence the instant writ petition.

3. We have heard learned counsel for the petitioner.

4. As per petitioner's own averment in para 11 of the petition, according to Rule 21 of the Punjab Agricultural Produce Market Rules, 1962 (in short, "the 1962 Rules"), the licencee was to apply for renewal of the licence 30 days before the date of expiry. A grace period of another 30 days was also provided under the said rule. Therefore,in order to maintain the continuity of the old licence, the new licence was required to be

obtained on or before 31.7.2008 whereas the petitioner obtained the same on 23.9.2008. Thus, there was delay of 54 days in applying for renewal of licence. No satisfactory explanation was given by learned counsel for the petitioner for the delay.

5. Further, Rule **3 (iii), (iii-a) & (iv)** of the Rules reads thus:-

> “**3. Sale of Plots** – All the plots in the markets developed by the Board or Committees shall be disposed of by way of open auction or allotment in accordance with the provisions of these rules:-
>
> **(i) & (ii).** xx xx xx xx xx xx xx
>
> **(iii)** Only those licencees shall be eligible for allotment of plots on the price, specified in clauses (i) and (ii), who have been granted licencees in the old denotified markets for a minimum period of three years before the date of allotment of such licencees must have submitted returns in Form M appended to Punjab Agricultural Produce Markets (General) Rules 1962 for all three years or such licencees shall have to furnish adequate proof of working in the denotified old markets in accordance with the provisions of form 'H' and form 'J' as specified in the Punjab Agricultural Produce Markets (General) Rules 1962 read with provisions of Form 'F', as specified in the bylaws of the market committee for the aforesaid period of three years. The period of three years referred to above shall be counted with effect from the date of notice inviting applications for allotment;
>
> Provided that only those licencees shall be eligible for allotment of plots who have transacted the business of sale and purchase of agricultural produce for an amount, not less than five lacs per annum during the last three years.
>
> **(iii-a)** In case, a fresh licence has been issued during the last three years for the reason that prescribed period for renewal of previous licence has expired, the tenure of the period of licence shall be reckoned from the date of issue of previous licence.

> However, the fresh licence must have been issued within a period of three months after the expiry of the prescribed period for renewal of previous licence;
>
> Provided that in case, the previous licence was issued to a firm and that firm had split up due to any reason, resulting the cancellation of the previous licence, in such a case, the tenure of period of licence shall be reckoned from the date of previous licence, only if the subsequent fresh licence has been issued in the name for the same firm and such fresh licence has been issued within a period of three months from the date of the cancellation of the previous licence;
>
> Provided further that the period, during which a licence remained cancelled during its non-renewal or due to the split up of a firm, then such a period shall be deducted while calculating the period, specified for a licence.
>
> **(iv)** the licence of the prospective allottees should not have been suspended or revoked for a period exceeding three months at a time during the last two years for violation of any rule and non payment of market fee."

Under Rule 3(iii), the firm is required to have a valid licence continuously for the last three years on the date of notice inviting applications for allotment of plots. Rule 3(iii-a) relates to certain eventualities where fresh licence has been issued during the last three years to the applicant.

6. A perusal of Rule 3(iv) clearly stipulates that the licence of the allottee should not have been suspended or revoked for a period exceeding three months at a time during the last two years for violation of any rule and non-payment of market fee. In the present case, applications for allotment of plots in New Grain Market, Mamdot were invited on 25.6.2010. The relevant period of three years was 26.6.2007 to 25.6.2010. Licence of the petitioner remained suspended for five months from 31.3.2008 to 22.9.2008 which was more than three months. The relevant finding recorded by

respondent No.2 in its order dated 25.7.2012, Annexure P.2 reads as under:-

> "7. According to above rule, it is clear that the appellant firm must have a valid licence continuously for the last three years on the date of notice inviting applications for allotment of plots. The notice for inviting applications for allotment of plots in new Grain Market, Mamdot was published on 25.6.2010. Therefore, the relevant period is 26.6.2007 to 25.6.2010 whereas the appellant firm obtained the new licence on 23.9.2008. It was claimed by the appellant firm that before this the firm was having a licence which was valid upto 31.3.2008. The appellant firm has admitted that it could not get this licence renewed after 31.3.2008 and got a new licence on 23.9.2008. Rule 21 of the Punjab Agricultural Produce Markets (General) Rules 1962 provides that a firm has to apply for renewal of licence thirty days before the date on which the licence is due to expire. A grace period of another thirty days is also provided under this rule. If a firm does not apply within said prescribed period then its licence is deemed to have been expired and a new licence under section 10 of the Act is to be issued. Rule 3 (iii-a) of the allotment rules provides that the link and continuity with the old licence shall only be available if the fresh licence is issued within a period of three months after the expiry of the previous licence. Thus,to have continuity with the old licence the new licence was to be issued on or before 31st July 2008. In the present case the firm had obtained the new licence only on 23.9.2008. As such the case of the appellant firm does not fall under this provision,hence the old licence got discontinued and no benefit of the previous licence can be granted to it. I have also gone through the judgment of the Apex Court of India cited by the appellant firm in its appeal. In compliance of the direction given by the Hon'ble Supreme Court of India in the appeal of M/s Labha Ram and sons and others vs. State of Punjab and others, the State Government has framed the Punjab state Agricultural Marketing Board (Sale and Transfer of Plots) Rules 1999. Till

> these rules are in existence, the same are applicable and binding. The appellant firm failed to fulfil the condition No. (iii) of rule 3 of the Allotment rules, hence it has no claim for allotment of plot on reserve price."

The revision petition was dismissed by respondent No.1 vide order dated 8.5.2014 (Annexure P.3) affirming the appellate order Annexure P.2.

7. Learned counsel for the petitioner has not been able to give any satisfactory explanation for the delay in applying for the renewal of the licence nor produce any material to point out any illegality or perversity in the impugned orders which may call for interference by this Court. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 26, 2015
'gs'

(Rekha Mittal)
Judge