IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10600 of 2015
Date of decision: 26.5.2015

M/s Azad Commission Agents

……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 29.8.2011, 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.349 from 5.9.1997. However, the said licence was suspended from 29.8.2008 to 25.1.2009. Therefore, there was no continuity of licence for the last three years from the date of inviting applications i.e. 25.6.2010. Thus, the petitioner did not fulfil the condition of continuity of licence for the last three years as per Rule 3 (iii-a) and (iv) of the Rules. On the basis of the recommendations made by the allotment committee, the Estate Officer – respondent No.3 passed order dated 29.8.2011, 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. Learned counsel for the petitioner submitted that Rule 3(iv) of the Rules was not attracted in the case of the petitioner. The suspension of licence was not for violation of rules or non payment of market fee.

5. 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 29.8.2008 to 25.1.2009 which was more than three months. The licence of the petitioner was suspended for violation of conditions of licence granted under section 10 of the Punjab Agricultural Produce Markets Act, 1961. The relevant finding recorded by respondent No.2 in its order dated 25.7.2012, Annexure P.2 reads as under:-

> "7. As per above rule 3(iii), 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. Rule 3(iv) of the allotment rules, further provides that the licence of the applicant firm should not have been suspended or revoked for a period more than three months during the last two years from the date of notice inviting applications. The notice for inviting applications for allotment of plots in new Grain market, Mamdot was published on

25.6.2010. Therefore, the relevant period of three years is 26.6.2007 to 25.6.2010. Admittedly,the licence of the appellant firm remained under suspension for five months i.e. from 29.8.2008 to 25.1.2009. The suspension period is more than three months and falls within last two years from the date of notice inviting applications. So far as the contention of the appellant firm that the licence of the appellant firm was suspended on account of indiscipline and not for violation of any rule is concerned, the same has no weight. The appellant firm had violated the conditions of licence granted under Section 10 of the Agricultural Produce Market Act, 1961 which resulted into suspension of its licence. Thus, the continuity of the licence of the appellant firm is discontinued. 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."

7. Learned counsel for the petitioner has not been able to show 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 **(Rekha Mittal)**
'gs' **Judge**