

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

CWP No.12151 of 2015 (O&M)

Date of decision: 01.10.2015

Ram Khilawan

... Petitioner

Vs.

State of Haryana & others

... Respondents

***CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.***

Present: Mr. Jagdish Manchanda, Advocate for the petitioner.

Mr. Rahul Dev Singh, DAG, Haryana.

Mr. Mahavir Sandhu, Advocate for the respondents.

.....

TEJINDER SINGH DHINDSA, J.

Petitioner assails the order dated 16.12.2014 (Annexure P-10) passed by the Improvement Trust, Karnal (hereinafter to be referred to as 'the trust') whereby his claim for allotment of a phari booth site in the vegetable market area Karnal has been declined.

2. The petitioner claims that he was engaged in the business of selling vegetables as a road side vendor in the old sabzi mandi Karnal. The trust framed a scheme known as Street Development Scheme No.37 (since renumbered as Scheme No.67) in place of old sabzi mandi and in the process of implementation of such scheme, the petitioner along with other phari walas/vendors were ousted. In the new vegetable market developed under the development scheme, the petitioner is doing the work of a tea vendor. The petitioner claims to be a displaced person and an oustee of the

old sabzi mandi. It has been contended on his behalf that he is vested with a right of preferential allotment of a phari booth site in the new vegetable market under the Development Scheme No.37.

3. Apparently, a survey was conducted by the trust on 27.11.2014 to assess the eligibility of the persons doing work on the spot and thereafter to make recommendations towards rehabilitation of the oustees. Perusal of the impugned order dated 16.12.2014 (Annexure P-10) would reveal that the claim of the petitioner has been declined only on the basis that he had been found working in the vegetable market as a tea vendor and not doing the work of selling vegetables.

4. Counsel for the petitioner has adverted to Resolution No.172 passed by the trust in the proceedings of a meeting held on 29.12.1989 and which reads as under:-

“172. As per the office report, these are about 400 Phari booth sites in Sabzi Mandi Scheme No.67. Applications were sought for from persons selling vegetables on Phari Area and doing other works in Sabzi Mandi. Improvement Trust has to allot plots to public and Chairman, after meeting the Phariwallahas, has considered it fit that those people who are working there should be given preference in allotment of Phari Booth sites so that these poor persons can do their work. These phari booths should be allotted only to those persons who are working on site. A complete survey would be done and name of persons, who are working there, would be recommended. A sub-committee should be constituted for the purpose of survey which should present its report immediately. These persons have filed applications praying that they should be given concession in the rates. Improvement Trust has fixed the rate of booth site as Rs.3,100/- per square yard, office has stated that these persons should be charged Rs.3,400/- per square yard instead of Rs.3,100/- per square yard as these are new

phariwallahas.

A sub committee consisting of

- 1. Chairman*
 - 2. Shri Madan Goyal*
 - 3. Shri O.P. Rana*
 - 4. Shri Dalbir Sidhu*
 - 5. Shri Satnam*
 - 6. Shri Charanjit Wadhawa*
- is constituted.”*

5. As per such resolution, the phari walas were to be accorded preference in allotment of phari booth/sites who were selling vegetables as also **“doing other works”** in the old sabzi mandi.

6. Contents of the Resolution No.172 as reproduced hereinabove are not disputed by the counsel appearing for the trust. Clearly, the claim of the petitioner could not have been rejected only on account of him having not been found engaged in vegetable selling work during the course of survey. In paragraph 19 of the petition it has been specifically averred that in the light of Resolution No.172 dated 29.12.2009, applications had been sought from persons selling vegetables in the phari area as also **“doing other works”** in the sabzi mandi. In the reply filed on behalf of the trust, such averments stand admitted.

7. We are of the considered view that the impugned order dated 16.12.2014 (Annexure P-10) has been passed overlooking the decision of the trust itself contained in the Resolution No.172 dated 29.12.1989. Reconsideration of the claim of the petitioner, as such, would be appropriate.

8. In view of the above, the order dated 16.12.2014 (Annexure P-10) is set aside. The matter is remanded to respondent No.2 to reconsider

the claim of the petitioner seeking allotment of the phari booth site as a displaced person/oustee in accordance with law and in the light of Resolution No.172 dated 29.12.1989 passed by the trust. Fresh order be passed and communicated to the petitioner within a period of eight weeks from the date of receipt of a certified copy of this order.

9. It is, however, clarified that we have not considered and expressed any opinion as regards the claim of the petitioner on merits.

Disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

01.10.2015

harjeet

Note: Whether referred to the Reporter?

Yes