

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 12578 of 2015(O&M)

Date of Decision: July 14 , 2015.

Aartee Welfare Association Sabzi Mandi Mohali (Regd.)

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Naresh K.Joshi, Advocate
for the petitioner.

Mr. Vinod S.Bhardwaj, Addl.AG, Punjab.

Mr. J.S.Toor, Advocate
for respondents No.2 to 4.

Mr. V.M.Gupta, Advocate
for respondent No.5.

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

HEMANT GUPTA, J.

The petitioner, an association of fruit and vegetable dealers has invoked writ jurisdiction of this Court claiming a writ of certiorari for quashing notice inviting tenders dated 30.04.2015 for the grant of lease for 30 years for refurbishment, operation and maintenance of the Fruit and Vegetable Market under the public private partnership at SAS Nagar (Mohali).

The petitioner is an Association of the fruit and vegetable vendors of the city of SAS Nagar, Mohali since 1978. But it is only on 03.06.2014, Annexure P17, the area of 3 Kanal 8 Marla of Sabzi Mandi was declared sub yard within the notified market area of the Market Committee.

A Division Bench of this Court in CWP No.12734 of 2005 (Hari Bhari National Environment Protection Society (Regd.) v. State of Punjab and others) passed an order on 23.04.2013 for a direction to enforce the provisions of Insecticides Act, 1968 so as to protect the life of the citizens from the excessive use of pesticides. After receiving suggestions from the Punjab Agricultural University, Ludhiana, the Haryana Agricultural University, Hisar and the Pollution Control Boards of the States of Punjab and Haryana, this Court passed an order on 23.04.2013:-

“As a pilot project, studies were ordered to be undertaken in Malerkotla, district Sangrur in the State of Punjab and in district Sonapat in the State of Haryana. It was further suggested that Tajpur Road and Haibowal Kalan, Ludhiana be mapped for study in dairy farming. The States were directed to file status report regarding action taken, as per studies undertaken by the Committees and also directions issued by this Court. This writ petition was admitted on 26.5.2011. The authorities were directed to continue to make efforts to prevent excessive use of pesticides as directed vide orders earlier passed by this Court. Today again, it has been said that States have done nothing to stop excessive use of pesticides.

Under the circumstances, we dispose of this writ petition by directing both the States of Punjab and Haryana and also UT Chandigarh to take remedial steps and implement the provisions of Insecticides Act, 1968 and Rules framed thereunder in letters and spirit. Recommendations made by the Committees be kept in mind.

The areas of consideration which were suggested by this Court vide order dated 19.2.2009 be also examined for further study and action be taken accordingly. It is further directed that both the States and the UT Chandigarh shall continue to file reports of action taken by the concerned states after every six months. If report is not so submitted to this Court, the Registry shall put up these writ petitions for motion hearing.”

In reply filed on behalf of respondents No.2 and 3, it is pointed out that the Board in order to meet the existing and forthcoming requirements of the farmers and the consumers wishes to establish a modern Fruit and Vegetable Market in Sector 65-A, Mohali. The Board for the purposes of refurbishment, operation, maintenance and transfer of the Fruit and Vegetable Market decided to hand over the same on public and private partnership for which Request for Proposal were invited vide notice dated 30.04.2015. It is pointed out that new fruit and vegetable market would be unique in its composition with a very broad framework for the purpose of refurbishment, operation and maintenance and that the participation of private player is essential. The additional facilities are to be created in the project including Cold Storage, Ripening Chamber, Pack House, Testing Facilities etc. It is also pointed out that the petitioners can very well participate in the auction for the allotment of shop to be conducted by the Concessionaire. It is further pointed out that the old Sabzi Mandi had not been notified on 03.06.2014. The commission agents shall not be displaced working in the said market yard. It is also pointed out that the petitioners cannot as a matter of right claim allotment of plots at concessional rates as they are being displaced.

Learned counsel for the petitioner refers to a judgment of Hon'ble Supreme Court in **Labha Ram and sons and others v. State of Punjab and others, (1998) 5 SCC 207** to contend that the petitioners should be rehabilitated in the new Mandi, which is being developed as the petitioners would not be able to work in the old Mandi as they have to move their business to new market yard in the Mandi, where they will not have place to do business.

We have heard learned counsel for the parties and find no merit in the writ petition.

It is not simply the sale and purchase of fruits and vegetables as in the old market yard but also the facilities of Cold Storage, Ripening Chamber, Pack House, Testing Facilities etc. which is part of the new facility being established. The State plans to enter into the public private partnership with the concessionaire who is to develop the area for the purpose of fruit and vegetable market. None of the right of the petitioners has been jeopardized for the reason that the old Mandi has not been de-notified and the petitioners are not to be displaced. The petitioners have a right to participate in the allotment process and to compete with all the participants who are willing to allotment of plots in the new Sabzi Mandi in the modern complex. The new complex is not for sale and purchase of the food grains but being established to meet the directions of this Court in **Hari Bhari National Environment Protection Society's case (supra)** The petitioners cannot claim a preferential right for allotment of the commercial area in the new fruit and vegetable market under construction only for the reason that the petitioners are working in the old Sabzi Mandi. The new complex is not in lieu of the old Mandi. Therefore, the petitioners have no right

to claim allotment of sites for their activities. They need to compete with other candidates seeking allotment of sites in accordance with law.

Dismissed.

**(HEMANT GUPTA)
JUDGE**

July 14 , 2015.
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**(LISA GILL)
JUDGE**