

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

**CWP No.21469 of 2014 (O&M)
Date of decision: 26.5.2015**

Gurdarshan Singh

.....Petitioner

Vs.

Chandigarh Industrial and Tourism Development Corporation Limited

.....Respondent

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

Present: Mr. Rajbirinder Singh Chahal, Advocate for the petitioner.

Mr. Shekhar Verma, Advocate for the respondent.

Ajay Kumar Mittal,J.

1. The petitioner seeks quashing of order dated 25.7.2014, Annexure P.4 cancelling allotment of Booth No.6 at Chef Lakeview, Chandigarh in his favour.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner vide letter dated 17.7.2012, Annexure P.1 was allotted Booth No.6, Chef Lake View on licence basis for carrying out business of photography. The tenure of the said licence was initially for a period of five years i.e. commencing from 17.7.2012. The respondent served upon the petitioner a show cause notice dated 27.6.2014, Annexure P.2 alleging therein that a complaint had been received against him to the effect that he was carrying out the business of sale of *chappals* as well as Punjabi *juti* in violation of the terms of the allotment letter whereas the user had been specified for the purpose of

photography. It was further alleged that the premises was allotted to the petitioner whereas on the site, one Nand Kishore Sharma and his son Vinay Kumar were found to be running the said booth. Thereafter, a committee consisting of Senior Manager (Finance) and Sr.Manager (P&A) was constituted which visited the booth on 26.6.2014 and submitted its report stating that the terms of Clauses 13 and 21 of the allotment letter had been violated by the petitioner. The petitioner submitted his reply dated 4.7.2014, Annexure P.3 to the show cause notice denying the allegations. It was inter alia stated that the booth was used for the allotted trade of photography and that he had given a loan of ₹ 3000/- to one Govind Singh who was unable to pay the same and hence he had left *Chappals* and some Punjabi *juttis* with him with the condition that if the same were sold, he could adjust against the sale of the said goods failing which he would repay the amount and take back the goods. In reply to the allegation regarding Nand Kishore Sharma and Vinay Kumar having found at the premises, it was mentioned that they were the employees of the petitioner for the last many years and they looked after day to day business at the booth. After considering the matter, the respondent authorities vide impugned order dated 25.7.2014, Annexure P.4 cancelled the allotment. Hence the instant writ petition.

3. We have heard learned counsel for the parties.
4. Vide order dated 16.10.2014, at the time of issuing notice of motion, the petitioner had undertaken to use the allotted booth only for the purposes of photography and for selling flowers as per the conditions of advertisement. In the meantime, dispossession of the petitioner from the site in dispute was stayed subject to payment of his monthly licence fee.
5. An affidavit dated 20.5.2015 has been filed by the petitioner by

way of Civil Miscellaneous Application No.6996 of 2015. The said application is allowed and the affidavit is taken on record. It has been stated therein that the petitioner has stopped the alleged misuse. He undertakes that he shall not indulge in any activity in future which may amount to misuse of the premises.

6. In view of the undertaking given by the petitioner by way of affidavit stating therein that the alleged misuse has been stopped by him and that he shall not indulge in any such activity in future, no further action with regard to cancellation of the licence of the petitioner in respect of the booth in question is required to be taken and cancellation order dated 25.7.2014 is set aside. However, it is clarified that in case, in future, the petitioner repeats the misuse, the respondent shall be at liberty to pass a fresh order in accordance with law and the petitioner shall not be entitled to any lenient view as taken vide the present order. The writ petition stands disposed of accordingly.

(Ajay Kumar Mittal)
Judge

May 26, 2015
'gs'

(Rekha Mittal)
Judge