

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

**CM-14889-CWP-2015 in/and  
CWP No.9066-2015**

Date of decision: 18.11.2015

Jalandhar Licence Association and others ..... Petitioners

Vs.

State of Punjab and others ..... Respondents

Present: Mr. Sandeep Punchhi, Advocate  
for the petitioners.

Mr. Amit Choudhary, Addl.A.G.Punjab.

Mr. Anurag Arora, Advocate  
for respondents No.5 to 7.

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

**HEMANT GUPTA,J. (ORAL)**

The petitioners claim to be occupants of convenience places, viz, “booths” provided to Petition Writers, Stamp Vendors, Typists, Lawyers, Photostat Machine Operators, etc. as licence holders on monthly basis.

The stand of the petitioners is that they were working in the District Court Complex, Jalandhar since its inception in the year 2000. However, during the course of arguments, learned counsel for the petitioners stated that the petitioners are not working in the Judicial Courts Complex, but in the Administrative Complex and, therefore, are governed by the Old Kutchery Rules, 1937 (since repealed by Kutchery Compound Rules, 2003 for short “the Rules”). The stand of the petitioners is that there are two types

of spaces provided under the Rules, such as, open spaces and also the shops. Further the stand of the petitioners is that they were provided 6'x8' space as licencees in lieu of the space occupied by them in the old court complex and that thereafter the members of the Association have constructed booths by incurring expenses from their own pockets. The booths constructed by the allottees were allotted on monthly basis, whereas the rent was to be deposited in the Office of the Deputy Commissioner, Jalandhar as per Schedule 'A' attached to these Rules.

It is, thus, contended that since the petitioners are in occupation of open space over which the petitioners have raised construction, therefore, only fixed licence fee can be claimed from them, whereas the respondents are now offering the property by way of auction in terms of the directions issued by this Court in CWP No.13041 of 2013 titled as 'Sunil Gupta and another Vs State of Punjab and others' and CWP No.14699 of 2013 titled as 'Narinder Kumar Malhotra Vs. State of Punjab and others', both decided vide common order dated 15.01.2015.

To understand the arguments raised, the relevant extract from the Rules read as under:-

**“3. Rates of Licence fees --** The fund comprises the income realised by the Deputy Commissioner of each district on account of conveniences provided in the compounds of district courts and tehsils to the petition writers, stamp vendors, typists, lawyers, printed form sellers, photostat machine operators, juice bars, S.T.D. and P.C.O. owners in the shape of monthly licence fees and leasing of confectioners, shops, bicycle/ scooter/motorcycle/car stands and culturable area of the compound.

The rates of licence fees will be as shown in Appendix 'A'.

**4. Auction of shops in the Kutchery Compound --** (1) In march every year, on a date to be fixed by the Deputy Commissioner and previously notified, the lease of cultural areas as well as the lease for the sale of printed forms shall be auctioned by an officer not below the rank of an Extra Assistant Commissioner, for a period of one year with effect from the 1<sup>st</sup> April next.

(2) The lease of the Kutchery Compound shops shall be auctioned in the month of March, when required up to a period of two years. This lease can be extended with the prior approval of the Financial Commissioner, Revenue for a further period of one year on existing conditions, in case of satisfactory service by the lessee.

### **Appendix-A**

#### **(Referred to in rule)**

#### **Rates of Licence fees charged in the Kutchery Compounds**

- |       |                                                                            |                       |
|-------|----------------------------------------------------------------------------|-----------------------|
| (i)   | Licence fess for wooden platform<br>(for all categories)<br>(size 8' X 6') | .. Rs. 100 per month  |
| (ii)  | Licence fee for wooden cabin<br>(for all categories)<br>(size 8' X 6')     | .. Rs. 200 per month  |
| (iii) | Licence fee for photostat machines, Juice Bars, S.T.D.,<br>P.C.O           | .. Rs. 400 per month" |

In Sunil Gupta's case (supra), the dispute was in respect of booths constructed by the State. Constructed Booths are to be auctioned in terms of Rule 4 of Rules. However, the petitioners claim to be in occupation of the open area for which fixed licence fee is contemplated.

A reading of Rule 3 of Rules shows that it deals with permission for use of conveniences i.e., permission to use open area in the complex as well as constructed shops. The Constructed shops have to be auctioned in terms of Rule 4 of Rules, whereas the open spaces are to be given on fixed licence fee. The first part of Rule 3 of Rules deals with income to be realized on account of conveniences provided by way of open

spaces in the compound of District Courts and Tehsils to the petition writers, stamp vendors, typists, lawyers, printed form sellers, Photostat machine operators, juice bars, STD and PCO owners, whereas the second part of Rule 3 deals with leasing of confectioners shops, bicycle/scooter/motorcycle/car stands and culturable area of the compound. The said area is to be auctioned. The convenience provided is, in fact, a licence granted to the persons to carry out the specific works in the open spaces within the court complex on a fixed licence fee, whereas the second part deals with auction of the specific works.

In view thereof, the official respondents are directed to allot shops falling in second part of Rule 3 such as confectioners shops, bicycle/scooter/motorcycle/car stands and culturable area of the compound by way of an action in terms of Rule 4, whereas if the booths have been constructed for petition writers, stamp vendors, typists, lawyers, printed form sellers, Photostat machine operators etc. by the State, the same shall also be auctioned, but in case it was open space in respect of which licence was granted, the respondents shall allot such open places in terms of the schedule attached.

With the said direction and clarification, the present writ petition stands disposed of with a direction to the State Government and the Deputy Commissioners in the State of Punjab to follow the Rules, as interpreted above, in the right earnest and complete the process of auction and/or allotment expeditiously.

[ HEMANT GUPTA ]  
JUDGE

November 18, 2015.

*smriti/kadyan/Vimal*

[ RAJ RAHUL GARG ]  
JUDGE