

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

**CWP No. 10292 of 2013**

**Date of decision:29.02.2016**

**M/s. Bhole Baba Fruit Co.**

**.....Petitioner**

**versus**

**U.T., Chandigrh and others**

**.....Respondents**

**Coram: Hon'ble Mr.Justice Rakesh Kumar Jain**

**Present:** Mr. KDS Sidhu, Advocate  
for the petitioner.

Mr. IPS Doabia, Advocate  
for the respondents.

**Rakesh Kumar Jain, J**

The petitioner applied for a licence under Section 10 of the Punjab Agricultural Produce Markets Act, 1961(for short, 'the Act') on 31.01.2007 on prescribed Form-A by depositing ₹5,000/- as security on 12.06.2007.

The proprietor of the petitioner firm is holding another licence of the firm named M/s Durga Kela Bhandar. In order to expand his business, he applied for a new licence after taking a new premises on rent. After the application was filed, shed in the market collapsed and it was decided that no fresh licence under Section 10 may be entertained till the reconstruction of the shed.

The petitioner was informed vide letter dated 26<sup>th</sup> June, 2007 that its application alongwith others has been kept pending which would be taken up for consideration after reconstruction of

the shed. The new shed in the market was constructed. The petitioner made a representation on 2.03.2009 that since the new shed has been constructed, therefore, licence may be issued to the firm. It is pertinent to mention that one of the firm M/s Ashoka Fruit Agency had also applied for licence under Section 10 of the Act, alongwith the petitioner but licence was not issued on the ground that the shed had to be first reconstructed.

The said M/s Ashoka Fruit Agency filed a writ petition bearing CWP No. 16730 of 2009 which was allowed by this Court on 24.08.2010. Thereafter, the petitioner filed another application dated 24.12.2010 for issuance of licence, made a reference of M/s Ashoka Fruit Agency's case, but the respondent refused to issue licence on the ground of non-availability of space in the Mandi. The petitioner challenged that order of 29.06.2011 by way of statutory appeal filed under Section 10(4) of the Act read with Rule 40 of the Punjab Agricultural Produce Markets(General) Rules, 1962. The said appeal was dismissed on the ground that already the proprietor of the petitioner firm has got a licence in the name of M/s Durga Kela Bhandar, SCF No.2, Sabzi Mandi, Sector-26, Chandigarh.

Aggrieved against these orders, the present petition has been filed.

In reply thereto, the respondents have submitted that the proprietor of the petitioner firm is already holding a licence of the firm namely M/s Durga Kela Bhandar and that the judgment rendered in the case of M/s Ashoka Fruit Agency is not applicable.

Counsel for the petitioner has argued that the Secretary of the Board can refuse the licence to a person only in terms of Section 10(3) of the Act and not on any other considerations or irrelevant grounds. It is further submitted that when the application was earlier rejected, the ground assigned by the respondent was about the non-availability of space and in appeal, the respondent has taken the ground that the proprietor of the petitioner firm has already got a licence in the name of another firm.

On the other hand, counsel for the respondents has however, stuck to the stand taken by them in their reply.

I have heard learned counsel for the parties and perused the available record.

To begin with, it would be relevant to refer to Section 10 (3) of the Act which reads as under:-

*“The {Secretary of the Board}, after such enquiry as he may consider necessary, refuse a licence to a person who in his opinion:-*

*(a) is a benamidar for or a partner with any person to whom a licence has been refused, or whose licence is cancelled or suspended under sub-section(2) for the period of such cancellation or suspension; or*

*(b) is convicted of an offence affecting the said person's integrity as a man of business within two years of such conviction; or*

*(c) is undischarged insolvent:*

*Provided that no such order shall be made without giving such person an opportunity to show cause why such an order should not be*

*made.”*

From a bare reading of the aforesaid provision, the Court could not find the reason for refusal of issuance of licence on the ground of scarcity of space and that the proprietor of the petitioner firm, who is proprietor of another firm, has got a licence of the other firm. The point of congestion in the Mandi was taken in the case of M/s Ashoka Fruit Agency as well which was held to be irrelevant and non-existent by this Court in the order dated 24.08.2010, passed in favour of M/s Ashok Fruit Agency. Insofar as, the licence in the name of another firm is concerned, even if the petitioner is a proprietor of two firms, he has a right to apply for licence on separate firms at separate locations/address. Thus, the reasons assigned by the respondents, declining the petitioner firm the grant of licence under Section 10 of the Act are without any basis and irrelevant.

Consequently, the present petition is hereby allowed and the impugned orders are hereby set aside. Direction is issued to the respondents to issue licence to the petitioner within a period of 30 days from the date of receipt of certified copy of this Order subject to completion of all other formalities as per law.

**29<sup>th</sup> February, 2016**

**Shivani Kaushik**

**[Rakesh Kumar Jain]  
Judge**