

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 11332 of 2014 (O&M)
Date of Decision: 15.01.2016

Mangat Ram

..Petitioner

versus

U.T. Chandigarh and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE ARUN PALLI.**

Present : Mr. Navkiran Singh, Advocate, for the petitioner.
Mr. Amit Arora, Advocate, for respondent Nos.1 and 2.
Ms. Deepali Puri, Advocate, for respondent No.3.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE

The petitioner seeks an order restraining the respondents from dispossessing him from his temporary place of business in Sector 22, Chandigarh till the possession of the booth allotted to him is handed over.

2. By a communication dated 07.06.2010, the respondents informed the petitioner that he had been allotted a booth in Sector-7, Chandigarh through draw of lots held on 26.05.2010. The petitioner was called upon to submit an affidavit duly attested by a Magistrate and an application form alongwith two passport size photographs as per the specimen supplied by the respondents to enable the respondents to proceed further in the matter.

3. The petitioner due to his ill health requested the respondents to allot him the premises on the ground floor instead of the upper floor. The respondents not having responded to the application, the petitioner filed Civil Writ Petition No. 7714 of 2011 for allotment of an alternative booth on account of his illness. The petition was disposed of by an order and judgment dated 03.05.2011 holding that prima-facie the petitioner does not have the right to seek an alternative booth. The learned Judge observed that the petitioner had already been shown a concession and allotted a booth being a migrant from Kashmir.

The learned Judge allowed the petitioner to file a representation with the

Advisor to the Administrator who would consider his case in view of his illness and pass an appropriate order in accordance with law.

4. The petitioner accordingly made an application which was by a communication dated 16.11.2011 rejected by the respondents on the ground that there was no provision in the Rules for change of booth on the ground of health after the draw of lots. This communication was tendered in Court at the time of hearing.

5. It is important to note two things at this stage. Firstly, the petitioner had already complied with all the requisitions contained in the letter of allotment dated 07.06.2010. The petitioner never refused to accept the allotment. He merely sought an alternative allotment. On the application for an alternative allotment being rejected, the petitioner did not refuse the original allotment. Secondly, the respondents did not cancel the allotment either. They in fact treated the allotment as valid and subsisting. In any event they did so impliedly. As the petitioner had complied with all the requisitions contained in the letter of allotment dated 07.06.2010, it was for the respondents to process the matter further in respect of the original booth upon their having rejected the application for an alternative booth.

6. This writ petition was filed on account of the respondents not having put the petitioner in possession of the booth. To reiterate, therefore, the petitioner had complied with all the requisitions contained in the letter of allotment, the respondents have not cancelled the allotment and the allotment is still valid and subsisting. In the circumstances, the petitioner is entitled to be put in possession of the booth in accordance with the letter of allotment dated 07.06.2010 and on the terms and conditions contained therein and prevalent at that time.

7. The petitioner, however, has been illegally occupying a site in Sector 22, Chandigarh which was not allotted to him. There is no doubt that he must vacate the same. Moreover, we are not inclined to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India unless the petitioner removes himself from the said plot and paying interest on the amount due as per the original letter of allotment i.e. ₹ 5,98,406/- at 10% per annum from 01.01.2013 till payment and/or realization. We are not inclined to compel the petitioner to pay interest during the period of about one year from the date on which the respondents were served with a copy of this petition and they filed the written statement dated 04.11.2014.

8. In the circumstances, the writ petition is disposed of by the following order:-

- i) The petitioner shall handover quite, vacant and peaceful possession of the plot at Sector 22, Chandigarh which he is presently occupying.
- ii) Upon the petitioner handing over the possession of the plot to the respondents and also paying on or before 01.01.2017 a sum of ₹ 5,98,406/- along with interest thereon at 10% per annum from 01.01.2013 till payment and/or realization and complying with all other terms and conditions, the respondents shall put the petitioner in possession of the said booth as per the letter of allotment dated 07.06.2010.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

15.01.2016
'ravinder'

(ARUN PALLI)
JUDGE