

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 18906 of 2016

Date of Decision: 14.9.2016

Sewa Wanti

....Petitioner.

Versus

Finance Secretary of Chandigarh Administration, UT, Chandigarh & others
...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Yogesh Chaudhary, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus directing the respondents to deliver the possession of allotted Booth No.19, Rehri Market, Sector 18, Chandigarh to her. Further, a direction has been sought to the respondents to pay the compensation to the petitioner not only for the delay in delivery of possession of the allotted booth but also for the forcible dispossession even from the allotted site of work in the month of December, 2008.

2. The husband of the petitioner, namely, Shri Chaman Lal, was the holder of a valid Hand Cart Licence bearing HCL No. 838, Registration No. 367 and was doing the work of Dhaba at the allotted site in Rehri Market, Sector 18, Chandigarh, since the year 1979-80. In the year 1991, a

Scheme, namely, Allotment/Transfer of built up booths in any sector on

Lease/Hire purchase basis in Chandigarh Rules, 1991 (in short “the Scheme”) was framed by the UT Administration for the allotment of built-up booths to the registered Hawker/Hand Card Licence holders in various Rehri Markets, Chandigarh. The husband of the petitioner being eligible got himself registered for the allotment of a Booth under the Scheme by depositing ₹ 100/- as registration charges. On verification, his claim was also found to be genuine and, thus, Provisional Identity Card (Annexure P-1) for the allotment of a booth was issued to the petitioner by the Licensing Officer, UT, Chandigarh. In March, 1991, a letter of demand of ₹ 3000/- as earnest money for the construction of built up booth was also issued to the husband of the petitioner. In response thereto, the husband of the petitioner deposited a sum of ₹ 3000/- by way of demand draft dated 22.3.1991 (Annexure P-2). Before the allotment of the booth, the husband of the petitioner had expired on 13.6.1996 which is evident from the death certificate dated 12.7.1996 (Annexure P-3). The petitioner being widow of Late Shri Chaman Lal, had applied for the transfer of his Hand Cart Licence in her favour. In pursuance to the earnest money deposited in the year 1991, the built up booths were finally offered for the allotment by the respondents only in the year 2005. The petitioner applied for the allotment of a booth against her Hand Cart License. Further, the claim of the petitioner was also duly found to be genuine by the Screening Committee and was recommended for the allotment of a built up booth. Accordingly, booth No.19, Rehri Market, Sector 18, Chandigarh was allotted to the petitioner in the draw of lots. The name of the petitioner was chosen to be kept in the list (Annexure P-4) of total eight allottees, all of whom were duly allotted the specific booth numbers but still the delivery of possession was chosen to be

kept pending subject to transfer of licence. In December, 2008, the petitioner along with others were dispossessed from their alternate sites of work in the Rehri Market. A period of 10 years have already elapsed since the allotment of the booth and 8 years even from the date of dispossession from the alternate site of work, but the possession of the allotted booth has not been delivered to the petitioner. The petitioner and some of the allottees have filed representations dated 22.2.2016 (Annexure P-5) and dated 26.3.2010 (Annexure P-6) to respondents No.3 and 4 for the allotment of booths, but to no effect. The petitioner moved an application under the Right to Information Act, 2005 seeking her status of the allotment of a booth. The said application was duly replied vide letter dated 29.2.2012 (Annexure P-7) that 'your claim was recommended by the Screening Committee subject to the transfer of License and matter regarding transfer licence is pending in the office of the Finance Department, as and when the decision of the same has been received from the F.D., booth will be allotted in your name.' One of the allottees, namely, Smt. Prem Lata filed CWP No. 22368 of 2010 and this Court vide order dated 21.2.2014 (Annexure P-8) allowed the said writ petition. Against the order, Annexure P-8, the respondents filed SLP (C) No. 22530 of 2014 and the Apex Court vide order dated 1.9.2014 dismissed the said SLP. COCP No. 3279 of 2014 filed by Smt. Prem Lata was disposed of by this Court vide order dated 12.2.2015 (Annexure P-9) on an undertaking given by the respondents that she would be charged at the same prevalent lump sum rate as was charged from other applicants at that point of time and the letter of intent has also been issued to her. Accordingly, the petitioner moved a representation dated 6.7.2015 (Annexure P-10) to respondent No.2 for allotment of Booth No.19, Gandhi

Market, Sector 18, Chandigarh, but no response has been received till date.

Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a representation dated 6.7.2015 (Annexure P-10) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.4 to take a decision on the representation dated 6.7.2015 (Annexure P-10), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 14, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No