

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.21233 of 2014 (O&M)
DATE OF DECISION: 10.03.2016

M/s Dilbagh Rai Megh Raj, Commission Agent, Grain Market
Ghagga

....Petitioner

versus

State of Punjab and others

.....Respondents

2. **Civil Writ Petition No.21238 of 2014 (O&M)**

M/s Vijay Trading Company, Commission Agent, Grain Market
Ghagga

....Petitioner

versus

State of Punjab and others

.....Respondents

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

Present: Mr. R.S. Modi, Advocate for the petitioners
Mr. Rajinder Goyal, Addl. Advocate General, Punjab
Mr. Anish Batra, Advocate for respondent Nos.2 to 4
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S.J. VAZIFDAR, ACTING CHIEF JUSTICE: (Oral)

A similar question arises in both the petitions. We accordingly dispose of both the petitions by a common order and judgment. The facts are noticed from CWP-21233-2014.

2. The petitioner has challenged the order dated 20.03.2008, rejecting his application for the allotment of a site in the New Anaj Mandi-Grain Market, Ghagga, on the ground

that his case was not covered under Rule 3(v) of the Punjab State Agricultural Marketing Board (Sale and Transfer of Plots) Rules, 1999. The petitioner has also challenged the order of the Appellate Authority which dismissed the appeal against the said order and of the revisional authority which dismissed the revision petition against the order of the Appellate Authority. Rule 3(v) reads as under:-

"v) Certificate to the effect whether the license was suspended or not.

v) The licensee should have been in possession of a premises as an owner or tenant or in any other legal capacity in the old market, which fact shall be determined by the allotment committee constituted under sub-rule(2) of rule 4."

3. The authorities held that the petitioner had failed to establish that he was in possession of the premises in the old grain market and that he also failed to establish that he was at all in possession of premises as an owner or tenant or in any other legal capacity.

4. The second ground is itself sufficient to uphold the impugned order. The petitioner failed to produce any evidence whatsoever of his possession of premises as an owner or tenant or in any other legal capacity. The petitioner merely relied upon his own affidavit dated 17.01.2008, stating that he worked in the old market as a licensee and that he was using the premises on rent. There is no evidence of the lease

agreement. The authorities, therefore, cannot be faulted for having rejected the application on this ground alone.

5. The petitioner had also failed to establish that he was operating from the old market. The only evidence that he relied upon was a license issued to him. However, our attention was not invited to any provision which required the license to be granted only in the event that an applicant possessed the premises as an owner or tenant or in any other legal capacity. Thus, the mere grant of a license would not be sufficient to establish that the applicant was entitled for allotment of a premises in the new grain market especially when he failed to establish that he was in possession of premises as an owner or a tenant or in any other legal capacity.

6. Faced with this situation, the petitioner relies upon an order passed by the Secretary, Punjab Mandi Board, Chandigarh, dated 27.01.2009, in the case of another applicant to contend that the boundaries of the old market itself were not clear and that the petitioner was having a license relating to the old mandi. It is not necessary to consider this aspect in view of the findings that the petitioner had not established that he was in possession of the premises as an owner or tenant or in any other legal capacity as required by rule 3(v).

7. Accordingly, both the petitions are dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

10.03.2016
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(ARUN PALLI)
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