

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

CWP No. 20133 of 2016 (O&M)

DATE OF DECISION : 20.10.2016

Gurgaon Sabzi Mandi Aadti Union, Gurgaon

.... PETITIONER

Versus

Haryana State Agricultural Marketing Board and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rajat Gautam, Advocate,
for the petitioner.

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RAMENDRA JAIN, J.

1. The members of the petitioner union were working as Commission Agents of crops in the New Sabzi Mandi, Gurgaon, since the year 1984, having their due licenses issued by the Market Committee, Gurgaon. The Government of Haryana, in the year 1990, asked the members of the petitioner Union to vacate the common platform and shift to Khandsa Road, Gurgaon, with an oral assurance that preference for allotment of the sheds, which will be built at Khandsa Road, will be given to them. Trusting the Government, members of the petitioner Union shifted their places of working from old Sabzi Mandi, Gurgaon, to Khandsa Road, Gurgaon, and started functioning from a common floor at Khandsa Road. However, after completion of development work and construction of sheds, the Government backed out from its earlier assurance to allot the sheds to the members of the petitioner Union on preference basis, and decided to auction

the newly constructed sheds to general vendors. Finally, in June, 2016, the Government asked the members of the petitioner Union to vacate the common floor at Khandsa Road, Gurgaon, in order to raise construction of sheds over the same. Consequently, the petitioner Union sent letters dated 03.06.2016 and 06.06.2016 (Annexures P-3 and P-4) to the Secretary, Market Committee, Gurgaon (respondent No.2 herein) requesting him that the decision to vacate the common floor will put all the commission agents out of business resulting into huge losses, as no other place is left for them to peacefully do their work and earn livelihood. The members of the petitioner Union also met the local MLA and other authorities, but no heed was paid to their genuine grievance. Thereafter, the petitioner Union wrote letter dated 22.08.2016 (Annexure P-7) to the Chief Minister, Government of Haryana, requesting him to find a solution in the matter, so that the commission agents are not ousted from the place from where they are earning their livelihood for the last more than 25 years, after obtaining due licenses from the Market Committee. But no response has been received by the petitioner Union.

2. Hence, by way of the present writ petition under Articles 226/227 of the Constitution of India, the petitioner Union has sought issuance of a writ in the nature of prohibition to restrict the respondents from evicting its members in an illegal manner, without giving preference to its members, while allotting the sheds constructed on Khandsa Road, Gurgaon.

3. Learned counsel for the petitioner contended that members of the petitioner Union are working at the common floor at Khandsa Road,

Gurgaon, for the last more than 25 years. They were shifted from Old Sabzi Mandi, Gurgaon, to the new site, in the year 1990, with an assurance by the Government to Haryana to give them preference for allotment of the sheds to be constructed on the site. But now the Government, without adhering to its aforesaid assurance is adamant to evict the members of the petitioner Union, without giving them preference, while making allotment of the sheds constructed on Khandsa Road, Gurgaon. In case, the respondents succeed in evicting the members of the petitioner Union from the common floor at Khandsa Road, Gurgaon, without allotting sheds to them, they will lose their livelihood. As per Section 6 of the Haryana Agriculture Produce Markets Act, 1961 (hereinafter referred to as 'the Act'), the State Government has the duty to declare the notified market area, wherein all the trades regarding agriculture can take place. Section 8 of the Act imposes restriction on every person, including license holders, to conduct trade of commission agent outside the notified area. Hence, if the members of the petitioner Union are not allotted any shed on preference basis, in that eventuality, they would not be able to earn their livelihood and have to face starvation.

4. We have given our thoughtful consideration to the submissions made by learned counsel for the petitioner and do not find any merit in the same.

5. Undisputedly, members of the petitioner Union have no vested right to allotment of sheds on preference basis, as they are not having any title over the place, where they are allegedly doing the business of commission agent for the last more than 25 years. Obtaining of license is of

no consequence, because that is only a permit to work as commission agent and does not give any title over the place where any person works as a commission agent. Hence, Sections 6 and 8 of the Act, relied upon by learned counsel for the petitioner, are having no relevance to the controversy in question. The petitioner Union has miserably failed to produce any document to show that any assurance was given by the Government regarding preferential allotment of sheds to its members, at any point of time. Hence, the alleged assurance, if any, without any proof, has no legs to stand.

6. Consequently, we do not find any merit in the instant writ petition and the same is, hereby, dismissed. Registry is directed to bring this judgment to the notice of respondent Nos. 1 and 2, so as to avoid any concealment of this judgment by the other similar situated persons, if any, while filing any such petition before this court in future.

(RAMENDRA JAIN)
JUDGE

October 20, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No