IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 20937 of 2016

DATE OF DECISION : 05.10.2016

M/s Ram Krishan Naresh Kumar

.... PETITIONER

Versus

The State of Haryana and others

..... RESPONDENTS

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

Present: Mr. Gurpreet Singh Dhillon, Advocate,
for the petitioner.

* * *

RAMENDRA JAIN , J.

1. Brief facts of the case are that on 25.06.2012, the Market Committee, Narnaul (respondent No.2) invited applications from the existing old licensees working in the Old Grain Market, Narnaul, for preferential allotment of shops on reserve price in the new notified Grain Market. Accordingly, the petitioner firm applied for allotment of such shop. However, vide orders dated 31.07.2012 and 12.09.2012 (Annexures P-2 and P-3) respondent No.2 intimated the petitioner firm that the allotment committee had rejected its claim on the ground that it did not fulfil the condition of independent premises as provided under Rule 3 (1) (vi) of the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 (hereinafter referred to as `the Rules'). The appeal and revision petition filed by the petitioner firm against the said decision of the allotment committee were dismissed vide orders dated 08.01.2014 and 10.08.2015

(Annexures P-8 and P-10).

2. Hence, by way of the present writ petition under Articles 226/227 of the Constitution of India, the petitioner firm is seeking issuance of a writ in the nature of certiorari quashing the aforesaid letters and the orders passed by the Appellate and the Revisional authorities.

3. The petitioner firm claims that it was granted category II license (Annexure P-4) on 07.05.1990. The said license was being renewed continuously and it was never suspended. The petitioner firm was having sufficient turnover since the issuance of the license and had also deposited the requisite market fee for the relevant financial years of 2010-11 and 2011-12, which was a condition precedent for preferential allotment of the shops in the new Grain Market, Narnaul. Since the issuance of the license, the petitioner firm is in occupation of the shop in the old de-notified Grain Market. The said shop was held jointly in the name of the proprietor of the petitioner firm and his brothers, namely Chiranji Lal and Jagdish Prasad. However, both the co-owners of the shop, namely Chiranji Lal and Jagdish Prasad, were having their own firm by the name of M/s Jagdish Prasad and Chiranji Lal. The petitioner firm as well as the said firm formed by co-owners of the shop were operating from the same premises, which was internally divided by way of partition wall. Vide sale deed dated 26.11.2001 (Annexure P-5), the said premises was purchased by Ram Kishan (proprietor of the petitioner firm), Chiranji Lal and Jagdish Prasad. It is the case of the petitioner firm that both the firms held their own independent place of business in the same premises after internally dividing it by way of partition wall. They were having their individual licenses. The petitioner firm was having its own independent electricity connection (Annexure P-7)

in its own name. Thus, it is the case of the petitioner firm that its claim has been wrongly rejected by the allotment committee.

4. Learned counsel for the petitioner argued that the premises in the old de-notified Grain Market was internally divided by way of a partition wall. In one part of the premises, the petitioner firm was running its business and in another part of the same premises, another firm by the name of M/s Jagdish Prasad and Chiranji Lal was running its own independent business. Therefore, the authorities below have wrongly rejected the claim of the petitioner firm on the ground that it did not fulfil the requisite condition of Rule 3 (1) (vi) of the Rules, while observing that the petitioner firm was not having an independent premises in the old de-notified Grain Market. Moreover, according to learned counsel for the petitioner, vide resolution dated 25.02.2009, the Haryana State Agricultural Marketing Board had made it clear that if more than one firms are running their business independently as licensees from one premises in the old Grain Market, they shall be considered eligible for allotment of plot in the new Grain Market. In support of his contentions, learned counsel has relied upon an order dated 05.03.2014 (Annexure P-9) passed by the Appellate Authority in the case of M/s Gaurav Fruit Company, and order dated 19.01.2012 (Annexure P-11) passed by this court in CWP No. 8354 of 2010, titled as M/s Kishori Lal Suresh Kumar Vs. Chief Administrator, Haryana State Agricultural Marketing Board and others.

5. We have thoughtfully considered the submissions made by learned counsel for the petitioner and have perused the impugned orders as well as the orders relied upon by him.

6. The claim of the petitioner firm was rejected by the allotment

committee on the ground that it was not having its independent premises, as required under Rule 3 (1) (vi) of the Rules, which reads as under :-

> *"3 (1) (vi) The category (ii) licensee must have an independent premises, either own or rented, in the old mandi to be donotified. In case there are more than one licensees in the same premises, the oldest firm or the one which is agreed upon in writing by all the firms occupying the same premises, shall be eligible."*

From a bare perusal of the impugned orders dated 08.01.2014 and 10.08.2015 passed by the authorities below, it is evident that the petitioner firm was operating its business from the same shop from which the business was being operated by M/s Jagdish Prasad Charanji Lal, after making a temporary wooden partition, after taking two separate licenses of Category II from the Market Committee on the same premises. It is not the case of the petitioner firm that there was *Pucca* partition in the premises. Even, on a spot inspection by the allotment committee, it was found that both the firms were operating their businesses from the same premises and there was no *Pucca* partition at that time. Therefore, the orders passed in M/s Gaurav Fruit Company's case and in the case of M/s Kishori Lal Suresh Kumar (supra) are of no help to the petitioner firm. It has been rightly observed by the Revisional Authority that the petitioner firm did not have any independent premises in terms of Rule 3 (1) (vi) of the Rules. It has been further held that M/s Jagdish Prasad Charanji Lal being senior to the petitioner firm in terms of issuance of license, was allotted the shop on reserve price. Therefore, the petitioner firm is not eligible for preferential allotment of shop in the new Grain Market. We do not find any illegality or perversity in the impugned orders passed by the authorities below rejecting the claim of the petitioner firm.

7. Dismissed.

(RAMENDRA JAIN)
JUDGE

October 05, 2016 **(AJAY KUMAR MITTAL)**
ndj **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No