

CWP No.21250 of 2016

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

CWP No.21250 of 2016
Date of decision: 24.10.2016

M/s Kirpal Singh Inderpal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CWP No.21075 of 2016

M/s Jagannath Attar Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CWP No.21268 of 2016

M/s Jeet Ram Dev Karan

..... Petitioner

Versus

State of Haryana and others

..... Respondents

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

Present: Mr. Ravinder Malik, Advocate, for the petitioner(s).

RAMENDRA JAIN, J.

This order shall dispose of aforesaid three writ petitions, as according to the learned counsel for the petitioner(s), the factual matrix and the issue involved therein are identical. However, the facts are being extracted from CWP No.21250 of 2016. It is pertinent to mention here that this is the fifth round of litigation by the petitioners.

2. Briefly, the factual matrix as narrated in the petition may be notified. The petitioner is the licensee of the Haryana State Agricultural

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Marketing Board, Panchkula (for short 'the Board') since 27.10.1989 and doing the business of sale and purchase of agriculture produce and paying the market fee as per Rules. The respondents carved out 37 new plots for shops in the year 2008 at New Sabzi Mandi, Bahadurgarh and put the said plots to public auction. The petitioner had filed CWP No.21708 of 2008 seeking direction to the respondents not to auction any plot in the New Apple, Cotton, Grain & Vegetable Market, Bahadurgarh.

3. On 14.12.2011 following order was passed by this Court in CWP No.21708 of 2008: -

“We have heard learned counsel for the parties and are prima facie satisfied that as 37 plots have become available after allotment to eligible licencees of the Old Mandi, the respondents should have offered these plots to other licencees of the Old Mandi, who had in the meanwhile become eligible for allotment. The respondents are instead proceeding to auction these plots before accommodating old licencees. We, therefore, direct the respondent No.2 to reconsider the matter and pass an appropriate order. It is, however, made clear to the petitioner and the respondents that in case the Market Committee decides to consider the claim of old licencees, they would be required to participate in a fresh draw of lots and shall be required to pay the prevalent current price.

Adjourned to 14.02.2012.”

4. However, during the pendency of the said writ petition, Chief Administrator of respondent No.3 – Board, passed order dated 14.03.2012 directing the Allotment Committee to consider the eligibility of the petitioner as on 06.04.2000 for allotment of the shop plots against 37 new plots which were carved out in the year 2008 in the aforesaid New Apple,

Cotton, Grain & Vegetable Market, Bahadurgarh. The meeting of the

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Allotment Committee was held on 07.08.2012. On 15.01.2013 CWP No.21708 of 2008 was dismissed as withdrawn with liberty to the petitioner to file fresh writ petition on the same cause of action. Thereafter, the petitioner filed CWP No.2034 of 2013 for quashing Memo No.LA-II-2008/102121-56 dated 10.12.2008 whereby respondent No.3 – Board had decided to auction the shop and booth plots, lying vacant in the New Apple, Cotton, Grain & Vegetable Market, Bahadurgarh. Petitioner also challenged the order dated 14.03.2012 passed by the Chief Administrator of the Board as well as the proceedings of the meeting of the Allotment Committee dated 07.08.2012 vide which the petitioner was held ineligible as on 06.04.2000 for allotment of shop plots and directions were sought to the respondents to allot the petitioners shop plots under the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 (for short 'the 2000 Rules') by considering its eligibility as on 02.01.2009 i.e. the date on which 37 newly carved out shop plots were put to public auction. This Court vide order dated 18.09.2013 disposed of CWP No.2034 of 2013, quashed the Memo dated 10.12.2008, order dated 14.03.2012 and proceedings of the Allotment Committee dated 07.08.2012 and respondents No.3 and 4 were directed to consider the claim of the petitioner afresh against 37 new plots under the 2000 Rules by taking into consideration its eligibility as on 02.01.2009 (date on which these plots were decided to be auctioned). In pursuance to the order dated 18.09.2013 passed by this Court in CWP No.2034, respondents allotted plots for shops to five persons out of nine persons and rejected the claim of the petitioner vide Annexure P-5 on the ground that market fee of the firm from 02.01.2007 to 01.01.2009 was

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petitioner filed an appeal before the respondents on the ground that similarly situated persons have been granted plots at reserve price. During the pendency of the appeal, respondents again issued a public notice for open auction of plot for shops and booths on 11.05.2015 without inviting applications from the old eligible licencees as per Rules and considering the case of the petitioner. Consequently, petitioner filed CWP No.9047 of 2015 challenging public notice dated 11.05.2015 for open auction of the plot for shop and booth without inviting applications from old eligible licencees. In the said writ petition, statement was made by the learned State counsel that respondent No.3 shall make sincere efforts to decide the appeals/applications for interim injunction pending before it expeditiously. It was also stated by learned State counsel that till the appeals/applications for interim injunction are decided by the concerned authorities, the petitioners, whose licences have not been renewed, shall be allowed to continue to function from the old/new Sabzi Mandi, wherever, they were functioning without insisting for renewal of licence till the appeals/revisions are adjudicated. Hence, the writ petition was disposed of on 03.08.2015 with liberty to the petitioners to raise all the pleas as available to them before the authority concerned, including the plea regarding creation of rental platform under the Rules/Policy decision and appellate authority was directed to decide all the appeals/applications for interim injunction expeditiously after hearing the petitioners by passing speaking order in accordance with law. Thereafter, the appeal of the petitioner was dismissed vide detailed order dated 04.11.2015 (Annexure P-9). On 01.12.2015 (Annexure P-10) respondents issued show cause notice to the petitioner to produce the proof of place of his business in Mandi within a period of 15

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days from the date of receipt of the notice otherwise not to function from the said Mandi. Aggrieved against the order dated 04.11.2015, petitioner filed revision petition before the Financial Commissioner-cum-Principal Secretary, Agriculture Department, Haryana, along with application for staying the operation of impugned order and show cause notice dated 01.12.2015. However, no stay was granted to the petitioner. Consequently, petitioner approached this Court by way of CWP No.26059 of 2015 for protection from eviction from the spot from where it was running its business, during the pendency of the revision petition by the concerned authority. The said writ petition was disposed of by this Court on 14.12.2015 (Annexure P-12) by granting protection to the petitioner till its revision petition was decided by the concerned authority. The revision petition of the petitioner was dismissed vide order dated 18.07.2016 (Annexure P-13) and respondent No.4 issued notice dated 21.07.2016 (Annexure P-14) to the petitioner to remove the encroachment within three days from the receipt of the notice.

5. By way of present writ petition petitioner has challenged the said notice dated 21.07.2016 (Annexure P-14) on the ground that same is bad in law as it has been issued by the respondents ignoring their own circular No.64 dated 01.04.2016, whereby directions have been issued to provide rental platform to the licencees, who are not found eligible for allotment of plot on controlled rate and while rejecting the claim of the petitioner, respondents have arbitrarily and illegally considered the eligibility of the petitioner as on 02.01.2009 instead of date of auction i.e. 05.12.2014, despite the fact that no cut of date was fixed by this Court.

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finding for non-renewal of its license and tried to dislodge the petitioner from carrying out business with police help and JCB machine etc.

6. Learned counsel for the petitioners submitted that rights of the petitioners were adjudicated by this Court in CWP No.2034 of 2013 decided on 18.09.2013 (Annexure P-3) directing the respondents to consider their case as on 02.01.2009 i.e. the date on which the plots were decided to be auctioned. However, no auction was held on 02.01.2009, rather the same was held on 05.12.2014, therefore, the respondents illegally considered the eligibility of the petitioners as on 02.01.2009 instead of date of auction i.e. 05.12.2014 and illegally and arbitrarily rejected their claim. Appeals and revision petitions of the petitioners were also dismissed vide orders dated 04.11.2015 and 18.07.2016, respectively without giving any finding on the grouses raised by the petitioners.

7. After perusing the paperbook and giving our thoughtful consideration to the submissions made by learned counsel for the petitioners, we find that all the writ petitions are devoid of any merit. Admittedly, the petitioners are not having any title over the property, wherein they are allegedly running their business. They are running their alleged business, if any, on the Government land illegally. Obtaining of licenses by the petitioners, which have already expired and have not been renewed, by itself does not entitle them to claim allotment of shop plot on preferential basis unless and until a cogent and convincing evidence qua their business is produced. Moreover, this is fifth round of litigation by the petitioners, which amounts to sheer wastage of precious time of the Court, which could have been used in adjudication of genuine litigation. The

petitioners by coming to this Court time and again have already attracted the

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serious attention of the respondents to consider their claim and resultantly many speaking orders have been passed by them rejecting the claim of the petitioners being not found eligible. Hence, petitioners cannot be permitted to re-agitate their claim time and again by filing such type of writ petitions like the present one. Further, perusal of the impugned notice dated 21.07.2016 (Annexure P-14) shows that petitioners have been directed to remove the illegal possession from the Government land, when they failed to do so in compliance of previous notice No.587 dated 01.12.2015.

8. In view of above, we do not find any illegality or perversity in the impugned action of the respondents.

9. Dismissed.

(RAMENDRA JAIN)
JUDGE

October 24, 2016
R.S.

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No