

CWP No.22164 of 2016 (O&M)

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

CWP No.22164 of 2016 (O&M)

Date of decision: 07.11.2016

Mobin Raja

..... Petitioner

Versus

Union Territory of Chandigarh and another

..... Respondents

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

Present: Mr. Rahul Jaswal, Advocate, for the petitioner.

RAMENDRA JAIN, J.

CM No.14166 of 2016

Additional affidavit filed along with the application is taken on record as Annexure P-6 subject to all just exceptions. Office to tag the same at appropriate place.

C.M. stands disposed of.

CWP No.22164 of 2016

Put pithily, mother of the petitioner was allotted a booth in the year 1990-91 under the hawkers license of Rehri Market, Sector 39-D, Chandigarh and was carrying on the business of confectionary at shop No.15, Sector 39-D (Rehri Market), Chandigarh. Chandigarh

CWP No.22164 of 2016 (O&M)

to the hawkers having hawkers license. On 21.12.2007 at about 12.30 to 1.00 p.m. the screening committee conducted the survey through videography in Rehri Market, Sector 39-D, Chandigarh. However, on that day mother of the petitioner had gone to perform the Namaz of Id-ul-zuha, therefore, her shop was found closed. When the mother of the petitioner came to know about the survey, she immediately made representation (Annexure P-2) before respondent No.2 to re-conduct the survey and consider her case for allotment of built up booth. In the year 2011 mother of the petitioner passed away and thereafter petitioner inherited the said business. Petitioner approached respondent No.2 – Estate Officer, U.T., Chandigarh for transfer of license of his mother in his name. Petitioner came to know that respondents were going to remove the *khokha* (shop) of the petitioner and other persons, who do not have the license. As a consequence thereof, petitioner moved representation (Annexure P-5) before respondent No.2, however, no action has been taken on the same.

2. Hence, by way of present writ petition filed under Article 226 of the Constitution of India, petitioner has sought issuance of writ in the nature of *mandamus* for directing the respondents to decide the representation dated 08.07.2016 (Annexure P-5) and not to dispose of the shop of the petitioner in Rehri Market, Sector 39-D, Chandigarh and for direction to respondent No.2 to conduct the survey on the basis of application dated 24.12.2009 (Annexure P-2) submitted by mother of the petitioner. Further prayer has been made for restraining the respondents from evicting the petitioner from the shop in question till the decision of the representation dated 08.07.2016 (Annexure P-5).

CWP No.22164 of 2016 (O&M)

3. Learned counsel for the petitioner contended that mother of the petitioner was having hawkers license in respect of the booth in question and after her death, petitioner inherited the same. However, the license of the said booth has not been transferred in the name of the petitioner. Even representation of the petitioner in this regard has also not been decided by respondent No.2, and has been kept pending illegally and arbitrarily by the respondents.

4. After going through the record and giving our thoughtful consideration to the submissions made by learned counsel for the petitioner, we find that this writ petition is completely devoid of any merit for the reason that a survey was conducted by the Screening Committee on 21.12.2007, to verify whether those who had applied for allotment were indeed operating from the allotted sites. Concededly, the mother of the petitioner was not found present at booth in question or being engaged in any avocation on the spot. Petitioner concedes that mother of the petitioner gained knowledge of the survey carried out by the respondents immediately thereafter. But, yet she remained quiet for a period of two years and, it was only vide application dated 24.12.2009 (Annexure P-2), to respondent No.2, she sought to revive her claim and prayed for inclusion of her name for allotment. The said application dated 24.12.2009 (Annexure P-2), moved by the mother of the petitioner was just an attempt to re-join the queue. However, she died in the year 2011. Thereafter, the petitioner remained silent for about five years and allegedly submitted a representation dated 08.07.2016 (Annexure P-5) to the respondents.

CWP No.22164 of 2016 (O&M)

undue aid of this Court, he illegally wants to prevail upon the respondents to consider his ingenuine claim.

6. Hence, in view of the discussion above, petitioner is not entitled to any discretionary relief under the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India.

7. Dismissed.

8. Registry is directed to bring this order to the notice of the respondents.

(RAMENDRA JAIN)
JUDGE

November 07, 2016
R.S.

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No