

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 5841 of 2015

Date of Decision: 6.12.2016

Vikramjit Singh

....Petitioner.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. Sanjeev Sharma, Advocate for the petitioner.

Mr. Rajinder Goyal, Additional Advocate General, Punjab.

Mr. R.S. Khosla, Senior Advocate with
Mr. Shashi Kumar Yadav, Advocate for respondents No.2 to 4.

Mr. Manbir Singh Bath, Advocate for respondent No.6.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to consider his claim for the allotment of booth/alternative site as allotted to the similarly situated rehri/khokha shopkeepers of Dashmesh Market, Phase XI, SAS Nagar, Mohali in the year 2002 and to restrain the respondents from demolishing the khokha of the petitioner in Dashmesh Market, Phase XI, SAS Nagar, Mohali. Further, a writ of certiorari has been sought quashing the order dated 18.9.2014 (Annexure P-8) passed by respondent No.2 rejecting the claim of the petitioner for the allotment of the rehri/booth.

2. A few facts necessary for adjudication of the instant petition as narrated therein may be noticed. The petitioner is running his business of readymade garments in Dashmesh Market (Rehri Market), Phase XI, Mohali since 1991 under the name and style of Simran Handlooms. The respondents have conducted various surveys in Mohali to know the unauthorized construction and occupation over the Government land and to provide alternative sites to the unauthorized occupants and prepared a list of the persons found in unauthorized occupation of the said land. As per survey list, Annexure P-1, prepared on the basis of the survey conducted in the year 1998-99, there were 249 persons including the petitioner whose name stood at Serial No. 128. In the year 2002, the respondents had conducted a draw for the allotment of booths in Phases X and XI, Mohali and about 200 persons were allotted booths in the General Category. According to the petitioner, the allotments were made to those persons who were not even having any khokhas in the said market nor they were named in any survey. All of sudden their names started reflecting from Serial Nos. 256 to 274 and who were all Government employees of PTL Company and they were allotted booths also in the said allotment. The said issue was brought to the notice of respondent No.3 vide letter dated 14.11.2002 (Annexure P-2). The petitioner along with others filed CWP No. 2832 of 2005 and this Court vide order dated 4.5.2006 (Annexure P-3) dismissed the said writ petition. They filed Review Application No. 223 of 2006 and this Court vide order dated 18.8.2006 (Annexure P-4) dismissed the review application. However, it was observed that the dismissal of the said writ petition would not come in the way of the applicants/writ petitioners if they can show that they are 1984 riot affected victims before the appropriate

authorities. CWP Nos. 12427 of 1993, 2243, 2656 and 20536 of 2003 were filed by some of the shopkeepers of the Dashmesh Market which were decided by this Court vide order dated 4.8.2006. In response thereto, the petitioners therein moved the representations along with all the relevant documents to respondent No.5. Respondent No.5 vide order dated 5.6.2007 (Annexure P-5) transferred all the representations along with the documents to respondent No.2 for deciding the same. But no order has been passed till date. The association of the Dashmesh Khoka Market moved an application under the Right to Information Act, 2005 to respondent No.2 for information regarding the criteria for the allotment of booths in Phases X and XI, Mohali. In response thereto, respondent No.2 vide letter dated 11.3.2010 (Annexure P-6) supplied the information that the said allotment was made to the unauthorized occupants of Phases X and XI, Rehri Market, Mohali and the allotment has not been made to any specific category but has been made on the basis of the survey conducted by them. The petitioner moved a representation dated 15.1.2014 to respondent No.2 for the allotment of the booth/alternative site but to no effect. Thereafter, the petitioner filed CWP No. 1595 of 2014 and this Court vide order dated 29.1.2014 (Annexure P-7) disposed of the said writ petition with a direction to the respondents to consider his claim and decide the same in accordance with law within four months from the receipt of the certified copy of the order. In pursuance thereto, respondent No.2 vide order dated 18.9.2014 (Annexure P-8) rejected the claim of the petitioner. Hence, the present writ petition.

3. Upon notice of motion having been issued, respondents No.2 to 4 filed their reply by way of affidavit whereas respondent No.6 filed the

written statement. It was pleaded by respondents No.2 to 4 that earlier the petitioner had filed CWP No. 2832 of 2005 which was dismissed by this Court vide order dated 4.5.2006 (Annexure P-3) and the review application filed thereof was also dismissed by this Court vide order dated 18.8.2006 (Annexure P-4). CWP Nos. 20536 of 2002, 2656 and 12427 of 2003 filed by the riot victims of 1984 for the allotment of booths were disposed of by directing the Deputy Commissioner, SAS Nagar to look into the pleas raised by the petitioners therein and take further appropriate action in accordance with law by passing a detailed speaking order. In response thereto, the Deputy Commissioner, SAS Nagar vide order dated 5.6.2007 (Annexure P-5) transferred all the representations to respondent No.2 for disposal thereof. Accordingly, respondent No.2 vide public notice dated 19.9.2007 invited claims from the eligible persons wherein 31 persons filed their claims for the allotment of booth sites. Thereafter, respondent No.4 sent the said claims to respondent No.5 for verification of red cards who vide letter dated 10.3.2010 sent report to respondent No.2 mentioning the name of the petitioner at Sr. No.12 with the remarks that the report/status regarding the case of the petitioner is not riot affected. Respondent No.2 vide order dated 31.3.2010 directed to allot the rehri booths to riot affected persons subject to their fulfillment and other conditions and the claim of the petitioner was rejected not being a riot affected person. Thereafter, the petitioner filed another CWP No. 1595 of 2014 and this Court vide order dated 29.1.2014 (Annexure P-7) disposed of the writ petition with a direction to the respondents to consider his claim and decide the same in accordance with law within a period of four months from the date of receipt of certified copy of the order. In compliance thereto, respondent No.2 vide order dated

18.9.2014 (Annexure P-8) rejected the claim of the petitioner for the allotment of booth being not a riot affected person. According to respondents No.2 to 4, the claim of the petitioner had been rejected twice by respondent No.2 and therefore, the writ petition was liable to be dismissed. Respondent No.6 in its written statement pleaded that the petitioner has no right to question the allotment of shops which have been allotted as per law. It was further pleaded that the petitioner had failed to show any legal right for the allotment of the booth site. A prayer for dismissal of the writ petition was made.

4. After hearing learned counsel for the parties, we do not find any merit in the writ petition.

5. Admittedly, the petitioner herein who was petitioner No.5 in CWP No. 2832 of 2005 had earlier approached by filing writ petition which was dismissed by this Court vide order dated 4.5.2006 (Annexure P-3), *inter alia*, with the following observations:-

“It is clear from the averments made by the petitioners themselves that they do not claim themselves to be riot affected persons. As a matter of fact some of the petitioners (although no details have been given) are not even such migrants.

The petitioners have failed to show any legal right for allotment of the booth sites/alternative sites to them. The pleas raised by the petitioners in the present petition are absolutely vague.

Consequently, we do not find any merit in the present petition and the same is dismissed.”

The review application filed thereof was also dismissed by this Court vide order dated 18.8.2006 (Annexure P-4). Thereafter, the petitioner filed another CWP No. 1595 of 2014 and this Court vide order dated 29.1.2014 (Annexure P-7) disposed of the writ petition with a direction to the respondents to consider his claim and decide the same in accordance with law within a period of four months from the date of receipt of certified copy of the order. In compliance thereto, respondent No.2 vide order dated 18.9.2014 (Annexure P-8) rejected the claim of the petitioner for the allotment of booth being not a riot affected person as the petitioner had failed to produce any new material as well to justify his claim. In view of categorical finding recorded by the respondents that the petitioner is not a riot affected person, no legally enforceable right accrued in favour of the petitioner. Further, respondent No.2 while rejecting the claim of the petitioner for the allotment of booth site had noticed that the petitioner had not placed any new supporting documents to show that he was a riot affected person as earlier the name of the petitioner was shown at Serial No.12 in the order passed by respondent No.2 and on the basis of the report of respondent No.5 that the petitioner was not a riot affected person, his claim had already been rejected.

6. In view of the above, the present writ petition is dismissed being devoid of any merit.

(AJAY KUMAR MITTAL)
JUDGE

December 6, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes