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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 16.12.2015

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Pronounced on: 03.02.2016

+ LPA 850/2015 & C.M.No.28205/2015

FAL AVAM SUBZI MANDI MASHAKHOR
ASSOCIATION

..... Appellant

Through: Ms. Rani Chhabra, Advocate

Versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Naushad Ahmed Khan, ASC for the
GNCTD.

Ms. Avnish Ahlawat & Ms. Latika
Chaudhary, Advocates for APMC &
DAMB.

Mr. Dhanesh Relan, Mr. Aman
Nandrajog & Mr. Arush Bhandari,
Advocates for DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

JUDGMENT

JAYANT NATH, J.

1. The present appeal is filed seeking to impugn the order dated 09.09.2015 dismissing W.P.(C) No.1414/2012 filed by the appellant.

2. The appellant filed the writ petition seeking directions that the members of the Mashakhori Association be given category A license or be provided reasonable space for sale of agricultural produce in the boundary of the Ghazipur Subazi Mandi. It was also prayed that

directions be issued to the respondents to provide 6' x 6' ft. platforms to the members of the association.

3. As per the writ petition it is claimed that members of the appellant are traders of agricultural produce under the Delhi Agricultural Produce Marketing (Regulation) Act, 1998 (*hereinafter referred to as the 'DAPM Act'*) and Delhi Agricultural Produce Marketing (Regulation) General Rules, 2000 (*hereinafter referred to as the 'DAPM Rules'*). It is stated that in the market the whole sale traders purchase agricultural produce from the farmers in bulk and then sell the same to the mashakhori traders. The mashakhori traders then sell the same to the retail sellers. The retail sellers further sell the same to the consumers.

4. It is urged that bulk of the members of the appellant association have been working in the Shahdara Subzi Mandi since 1972 and the members have been selling fruits and vegetables. Reliance is placed on an inspection dated 01.11.2008 where it is stated that it was found that the members of the appellant association were selling agricultural produce by the side of the main market. In the year 2010, it is urged that the Chairman of respondent No.3 had assured that necessary steps would be taken in favour of the appellant.

5. It is further urged that the members of the petitioner association have been working in the Shahdara Subzi Mandi since 1970-1972 and when the market was shifted to the Ghazipur Subzi Mandi, the members of the petitioner association were assured that provisions will be made for the members of the petitioner association. However, till date no provisions have been made.

6. It is urged that till date the matter has been kept in abeyance though there are 206 platforms which are lying un-allotted. It also stated that there is unused vacant land which is a strip 10 ft. wide running throughout the market boundary, which is available. Further, 44 licenses of A category have been issued to some of the members of the petitioner association but rest of the members have neither been given any license nor category A licenses have been issued to them. It is urged that the members of the petitioner association have not been given any space and hence the members have to pay Rs.300- 400 per day to the category B license holders alongwith 10% commission.

7. The learned Single Judge dismissed the writ petition. The order notes the contention of the learned counsel for the appellant, relying on Sections 79 and 80 of the DAPM Act and Rule 17 of the DAPM Rules, that as the members of the appellant association were carrying on business as traders of agricultural produce, they have a right to a license. They also have to a right to be allotted space/platform within the boundary of the Ghazipur Subzi Mandi to carry on their business.

The impugned order also notes the submissions of the respondents that earlier a license was required for carrying on business in agricultural produce from anywhere in Delhi. But now since 02.09.2014 under the new Notification, the regulation of marketing of fruits and vegetables has ceased beyond the markets/market yards/sub- yards of the respective Marketing Committees of APMC Azadpur, APMC Keshopur and APMC Shahdara (since relocated to Ghazipur). It also noted the contention of the respondent that a limited number of licenses can be given/granted for the Market Yards depending upon the space available but since the year 2000

no licenses have been issued and no space is available in any Market Yards. It was also stated that only those having valid licenses in Shahdara Subzi Mandi, were re-located and granted space in Ghazipur Subzi Mandi and their licences were taken up for renewal.

8. The impugned order, on reading of Sections 79 and 80 of the DAPM Act and Rule 17 of the DAPM Rules and relying on various judgments of the Supreme Court, including *M.C.V.S. Arunachala Nadar v. State of Madras*, AIR 1959 SC 300; *Jan Mohammad Noor Mohammad Bagban v. State of Gujarat*, AIR 1966 SC 385; *Vishnu Dayal Mahendra Pal v. State of Uttar Pradesh*, (1974) 2 SCC 306 and *Bhagwan Dass Sood v. State of Himachal Pradesh*, (1997) 1 SCC 227, held that it is implicit in the regulations that there should be a limit to the number of the licenses which can be granted/issued which have to necessarily depend upon the space/platforms available in the Market Yard/Mandi. The very purpose of issuing a license is to enable the respondents to supervise, regulate and monitor the activities in the Market Yard. The impugned order also noted that there is no information available as to how many and who all are the members of the petitioner association. Keeping in mind these facts, the writ petition was dismissed.

9. We have heard the learned counsel for the parties and have gone through the record.

10. The learned counsel for the appellant association strenuously urged that space is available in the Ghazipur Subzi Mandi and that the appellants have been carrying on business in Ghazipur Subzi Mandi since long. A question was put to the learned counsel for the appellant as to

whether the members have even applied for licenses from the respondents. There is no answer available.

11. Section 80 of the DAPM Act provides for grant of license and reads as follows:

“80(1) Subject to the rules made in this behalf, a marketing committee may, after making such inquiries as it deems fit, grant or renew a license for the use of any place in the market yard / area for their marketing of agricultural produce or for operating therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity in relation to the marketing of agricultural produce or may, after recording reasons in writing, refuse to grant or renew any such license.

Provided that where a marketing committee has not started functioning, the Director, subject to any rules that may be made in this behalf, may grant or renew a license for the marketing of agricultural produce or for operating in the market yard / area as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or any other capacity.”

Hence, marketing committee may after making such inquiries as it deems fit, grant or renew a license.

12. The appellants have only made vague and unsubstantiated averments that some of its members have been carrying on trading in agricultural produce in Shahdara Subzi Mandi area. There is nothing to show that the members of the appellant association have been granted any license or space/platform for carrying on trading activities in Shahdara Subzi Mandi. In fact, it is also admitted that none of the members of the appellant association have even applied for any license. Clearly, the appellants have failed to show that they have any right to get a license or

to be allotted market space/platforms in Ghazipur Subzi Mandi. There can in these facts be no direction given that all members of the appellant association be granted space/license.

13. In our opinion, the learned Single Judge has rightly interpreted Sections 79 and 80 of the DAPM Act to hold that it is implicit in the regulations that there would be a limit to the number of the licenses which can be granted which have to necessarily depend upon the space/platforms available in the Market Yard.

14. We see no reason to interfere with the impugned order. The present appeal is dismissed.

**(JAYANT NATH)
JUDGE**

(CHIEF JUSTICE)

February 03, 2016

v