

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17878 of 2014 (O&M)

Date of Decision: 18.01.2017

Satpal & Anr.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE GURMIT RAM**

Present: Mr. Arun Bansal, Advocate;
Mr. Vishal Aggarwal, Advocate;
Mr. Vinod Gupta, Advocate;
for the petitioners

Mr. Deepak Balyan, Addl. AG Haryana

Mr. Lokesh Sinhal, Advocate for respondents No.2&3
(in CWP Nos. 5644 & 4375-2015, 12346 & 11595-2016).

Mr. Naveen Gupta, Advocate
for respondents No. 2 and 3 (in CWP-17878-2014).

Mr. Amar Vivek, Advocate
for respondents No. 2 and 3 (in CWP-12343-2016).

Mr. Rajneesh Gupta, Advocate
for respondent No. 6 (in CWP-4375-2015).

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP Nos.17878 of 2014; 4375, 5644 & 19161 of 2015; 11595, 12343 & 12346 of 2016 as the point in issue is common. For the purpose of facts, CWP No.17878 of 2014 is being treated as the lead case.

(2) The petitioners are working as Commission Agents in the Grain Market, Cheeka, Tehsil and District Kaithal. It appears that owing to the requirement of farmers and other market forces, the State of Haryana has set up an Additional Grain Market in the area of Cheeka where the sites have been sold/decided to be sold by way of open auction only.

(3) The State Government also took a conscious decision not to de-notify the existing Grain Market and rather to keep it functional. Consequently, old licensees who would have, if the existing market was de-notified, entitled to allotment of plots in the New Grain Market on 'concessional' and 'preferential' basis, have not been extended any such benefit or concession.

(4) It is in this backdrop that the petitioners seek a strange direction to quash Rule 3(1) and 3(3) of the Haryana State Agricultural Marketing Board (Sale of Immovable Properties) Rules, 2000 to the extent these Rules provided the benefit of allotment of concessional plots to those 'old licensees' only who were operating in the Old Market which has been de-notified.

(5) In our considered view, such a challenge is wholly misconceived and directly in conflict with the *dictum* of the Apex Court in **M/s Labha Ram & Sons v. State of Punjab & Ors. (1998) 5 SCC 207.** The prayer to struck down the Rules is thus rejected. So far as the petitioners' claim for allotment of plot in the Additional New Grain Market is concerned, learned counsel for the Marketing Board states at the bar that the Old Grain Market where the petitioners are working as Commission Agents shall not be de-notified and shall continue to operate. He further states that the petitioners' licences shall be duly renewed from time to time subject to fulfillment of eligibility conditions. He further states that no impediment of any nature shall be caused in carrying out the business by the petitioners or other Commission Agents in the existing Grain Market.

(6) In this view of the matter, when the Grain Market in which the petitioners and all other commission agents are operating has not been de-

notified and their existing running businesses have not been affected, they cannot seek allotment of plots in the Additional New Grain Market at 'concessional rate' as a matter of right.

(7) That apart, this Court cannot be oblivious of the fact that a commission agent who is already running his business for good long years and has sufficiently earned out of business and thus is capable to buy a plot in the New Grain Market in open auction is entitled to allotment of plot on 'concessional'/'preferential' basis whereas a new entrant in the business is compelled to buy such plot in open auction only. The petitioners therefore cannot be heard to be in a disadvantageous condition as compared to a new entrant who enters the competitive field with heavy investment including on the purchase of plot in open auction.

(8) Disposed of in above terms.

(Surya Kant)
Judge

18.01.2017
vishal shonkar

(Gurmit Ram)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No