

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

CWP-24789-2012 (O&M)

Date of decision:- 09.08.2017

Smt. Shankutla Devi

...Petitioner

Versus

Finance Secretary of Chandigarh Administration, Union
Territory, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Karan Nehra, Advocate,
for the petitioner.

Mr. Suvir Sehgal, Senior Standing Counsel,
with Mr. Daman Dhir, Advocate,
for the respondents.

* * * *

S.J. VAZIFDAR, C.J. (ORAL)

The original petitioner sought a writ of mandamus directing the respondents to transfer a hawker license of her deceased husband in her favour and then to allot her a booth in the Rehri Market, Chandigarh. The original petitioner alleged that her name was also recommended by the Screening Committee subject to transfer of license under the allotment/transfer of built up booths in any sector on lease/hire purchase basis as per the Chandigarh Rules, 1991. The original petitioner unfortunately expired and the petition is being prosecuted by her legal representative(s).

2. If, in fact the original license holder i.e. the predecessor of the original petitioner and the present petitioner was entitled to be allotted the booth, the mere fact that he/she expired would not bring that entitlement to an end.

The legal representative(s) would be entitled to the benefit thereof. This is in view of a common order and judgement of a Division Bench of this Court dated 21.02.2014 in CWP-22368-2010 titled as *Prem Lata vs Finance Secretary of Chandigarh Administration and others* and CWP-6525-2011 titled as *Ajay Kumar Vs Finance Secretary of Chandigarh Administration and others*. This judgement has attained finality. The Petitions for Special Leave to appeal filed by the respondents against this judgement have been dismissed by the Supreme Court. The order of the Supreme Court dated 01.09.2014 dismissed the Petition for Special Leave to Appeal filed in Prem Lata's case. The order dated 27.02.2017 dismissed the Petition for Special Leave to Appeal in Ajay Kumar's case and further stated: "However it is made clear that it may not be treated as precedent". The reference obviously is to the order of the Supreme Court not being treated as a precedent. In view of these orders, we are bound by the order and judgement of the Division Bench of this Court in CWP-22368-2010 titled as *Prem Lata Vs Finance Secretary of Chandigarh Administration and others* and CWP-6525-2011 titled as *Ajay Kumar Vs Finance Secretary of Chandigarh Administration and others*.

3. The writ petition is, therefore, disposed of by directing the respondents to consider the petitioner's case in accordance with law including the judgement of the Division Bench of this Court dated 21.02.2014 in CWP-22368-2010 and CWP-6525-2011.

4. The legal representative(s) of the petitioner shall in the first instance appear before the Deputy Commissioner exercising the powers of the Estate Officer, U.T., Chandigarh on 16.08.2017 at 11.00 AM and thereafter as directed by the

5. The Deputy Commissioner, Chandigarh is requested to pass the order by 30.09.2017 and if the petitioner's claim is accepted, the needful be done including handing over possession to the legal representative(s) of the petitioner by 30.11.2017.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

09.08.2017
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No