

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

CWP No.195 of 2016 (O&M)

Date of decision:-30.11.2017

M/s Shyam Lal Sher Singh

.. Petitioner

Vs.

State of Haryana and others

.. Respondents

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

Present:- Mr. N.C. Kinra, Advocate
for the petitioner.

Mr. Deepak Balyan, Addl. A.G., Haryana.

S.J. VAZIFDAR, CHIEF JUSTICE

The petitioner has challenged the orders passed by the respondents refusing his application for allotment of plot on the reserve price in the New Vegetable Market, Narnaul. One of the grounds on which the application was rejected was that the petitioner had not paid the market fee for the financial years 2010-11 and 2011-12. The applications were invited on 25.06.2012.

Rule 3(1)(iv) of the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 reads as under:

“Rule 3(1)(iv): Such licensees must have paid market fee of at least Rs.5000 annually for the last two years.

Provided that in the case of a category-II licensee who does not pay market fee himself, his annual turnover during the last two years should be at least rupees two lakh fifty thousand.”

The impugned orders have been passed on the basis that the petitioner had not paid the requisite market fee for the financial years 2010-11 and 2011-12. None of the impugned orders, however, taken into consideration the proceedings of the 193th meeting. The relevant part thereof is reproduced as under:

“Item No.2 Rehabilitation and Resettlement Policy.

Approved with the modification that proposed area for a purchase centre would be 6 to 8 acres and for sub-yard 18 to 20 acres. Further, in exceptional circumstances for the reasons to be recorded, keeping in view huge arrivals of agricultural produce and also the fact of adjustment of Oustee land owners, the land area can be increased.

Item No.3 The matter pertaining to the eligibility of old licencees re- fixation of reserve price and incentive to the allottees.

The proposal was approved with the following modifications:-

1. xx xx xx
2. Regarding point No. IV, the failure to fulfill the condition of market fee /turnover for one of the last two financial years shall be condoned, if the condition is fulfilled by taking any two financial years in the previous four financial year. In case of death or permanent disability of the main proprietor, the turnover can be taken as best two of the last five years preceding death of the proprietor and claim may be filed only the widow and/or children of the deceased proprietor.”

The petitioner also relies upon the judgment dated 20.11.2015 in the case of M/s Sheo Ram Dass Chandan Lal Vs. Financial Commissioner and Principal Secretary and others (Civil Appeal No.13529 of 2015). Based on the aforesaid decision and the said meeting and the judgment of Hon'ble the Supreme Court, it is contended that the petitioner would be entitled to the allotment of a plot as he had paid the requisite market fee for at least two years in the preceding four years. As noted above, this aspect has not been taken into consideration by the respondents.

In the circumstances, the impugned orders are set aside and the matter is remanded to the Revisional Authority to take a fresh decision in accordance with law after taking into consideration the judgment of the Supreme Court and the proceedings at the meeting held on 12.09.2011.

Accordingly, this petition is disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

30.11.2017
Atul

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No