

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

1. CWP-26401-2014
Date of Decision: March 29, 2017

M/s Mahadev Parsad Manoj Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

2. CWP-130-2015

M/s Pankaj Enterprises and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

3. CWP-6804-2015

Rama Nand Manoj Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

4. CWP-9314-2015

Garg Traders

.....Petitioner

Versus

State of Haryana and others

.....Respondents

5. CWP-10070-2015

Sadhu Ram Ashok Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

6. and
CWP-13076-2015

Pawan Kumar Mahabir Prasad

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Nitin Kant Setia, Advocate
for the petitioners.

Mr.Amar Vivek, Advocate
for the Haryana State Agricultural Marketing Board.

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SURYA KANT, J.

This order shall dispose of all the above-captioned writ petitions as the common point which arises for consideration in these cases is whether the petitioners, who claimed themselves to be the old licencees at Grain Market, Uklana, District Hisar, are eligible for allotment of plots at concessional rate in the New Grain Market setup at Uklana Mandi? If so, whether allotment of plots can be denied on the plea that all the plots have since been auctioned and no plot is left for the old licencees? Another question which arises for determination is as to what should be the cut-off date to determine the eligibility of the petitioners?

[2] Since in CWP No.6804 of 2015 there are 22 petitioners, the facts in brief are being extracted therefrom.

that all the 22 petitioner-firms have been granted licences on different dates ranging from the year 1995 till the year 2004. It is also averred in para 3 of the writ petition that the 'Old Grain Market' at Uklana was decided to be de-notified in the year 2005 and prior thereto applications were invited from the old licensees for allotment of 110 plots but eventually only 86 licence holders, who had been granted licences upto March 1995, were considered eligible for allotment at concessional rates (on reserve price). Out of these 86 licensees, it is averred that only 26 were allotted plots and the remaining 79 shop-sites were sold by way of open auction.

[4] Thereafter the Market Committee, Uklana, is said to have carved out 116 plots in the New Grain Market in the year 2008 out of which 53 plots were sold by way of open auction on 26.06.2009. Since the old licensees were not being considered for allotment in terms of the judgment of the Hon'ble Supreme Court in **Labha Ram and sons and others vs State of Punjab and others**, 1998(5) SCC 207, some of the old licensees filed CWP No.13024 of 2009 decided on 11.11.2010 (**M/s Chandgi Ram Ram Niwas and others vs Haryana State Agricultural Marketing Board and others**) alongwith other connected writ petitions, with a direction to consider their claim for allotment on preferential basis against the available plots. Those 63 plots were thereafter allotted to the old licensees but did not satisfy the claims of old licensees still remained dis-satisfied, who have now approached this Court.

[5] Mr.Amar Vivek, learned counsel for the Haryana State Agricultural Marketing Board (for brevity, 'the Board'), on the other hand,

conditions as per the Statute and Rules are concerned, the Board undertakes to allot the plots to them. He, however, disputes the eligibility of some of the petitioners as on the cut-off date, which is decisive for determining the eligibility.

[6] Having heard learned counsel for the parties, it appears to us that the 'eligibility' is a question of fact which has to be determined separately in each case. The date of grant of licence, annual business returns of a firm and the place from where the business activities were being carried out etc., are some of the facts relevant for determining the eligibility. As of now we do not express any views as to what should be the cut-off date for determining the eligibility as there is a serious dispute over the date when the process to set up the New Grain Market was initiated or the date on which the business of the old licensees came to complete halt due to shifting of business to the New Grain Market. All these questions of facts are required to be determined by the authorities in exercise of their statutory powers under the provisions of Punjab Agricultural Produce Market Act, 1961 [as applicable to State of Haryana] read with the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules 2000, coupled with the binding judicial precedents rendered by the Hon'ble Supreme Court as well as this Court.

[7] Consequently, the writ petitions are disposed of with a direction to the Market Committee, Uklana, to determine the eligibility of each petitioner by way of a reasoned order and if need be, by inviting supplementary information from them. For the purpose of determination of eligibility, one uniform cut-off date shall be fixed in accordance with law.

After such exercise, whosoever is found eligible, a plot at the concessional rate on preferential basis shall be allotted to such eligible old licensee within a period of two months from the date of determination of the eligibility. The exercise to determine the eligibility shall be completed within a period of three months from the date of receipt of a certified copy of this order.

[8] However, the petitioners, who are held to be ineligible for allotment for whatever reason, shall be at liberty to challenge the order passed by the Market Committee before the appellate Authority under the Act/Rules.

[9] Till such exercise takes place, the old licensees shall be allowed to operate their business from the existing sites.

(SURYA KANT)
JUDGE

March 29, 2017
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(SUDIP AHLUWALIA)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |