

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

CWP No.25714 of 2016

Date of decision : 20.01.2017

M/s Vishal Enterprises

...Petitioner

Versus

State of Haryana & Ors.

...Respondents

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

Present: Mr. Sushil Jain, Advocate for the petitioner.

SUDIP AHLUWALIA, J.

In this Writ Petition, the petitioner seeks quashing of the impugned orders dated 8.8.2008 passed by Respondent No.2-Chief Administrator; 2.6.2010 passed by the Financial Commissioner & Principal Secretary to Government of Haryana, and 17.3.2016 passed by the Additional Chief Secretary, Agriculture Department, Haryana (Respondent No.1) with a direction upon the Respondents to allot a shop/plot in the New Grain Market, Safidon, District Jind, in terms of certain decisions of Supreme Court, along with a further direction on them to consider the petitioner's claim for allotment of plot under the Old Licensee of Category (ii) as the similarly situated licensees have been granted.

- 2) The Petitioner/Firm originally held license for Shop No.165, Old Anaj Mandi, Safidon, but failed to deposit the Rent Agreement/Lease Deed of the said shop to Respondent No.3 on demand. Later on after the proprietor's father partitioned his movable and immovable properties vide Partition Deed, the ground floor of Shop No.66, Anaj Mandi, Safidon was given to the proprietor's elder brother Venktash Mittal, who ran another proprietorship firm under the name and style of M/s Venktash Lalit Kumar, while first floor of the said shop fell into the share of petitioner firm. The petitioner firm subsequently claimed to have obtained license for working on the first floor, which was granted to it with effect from 12.5.1997.
- 3) In the year 2002, the Respondent No.2 invited applications from old licensees for allotment of shops in the New Grain Market. The petitioner along with other similarly situated persons submitted their application forms. But the petitioner's case was rejected on the ground that the Firm was not having any independent premises.
- 4) Annexure P-13 is the order passed by the Chief Administrator - Respdt. 2 on 08/08/2008 vide which the representations of the two proprietorship firms operating from the same premises were disposed of. It was mentioned therein,

“As per provisions of Rules in case toward more firms are working on the same premises, the oldest firm or the firm with the mutual consent shall be eligible for allotment of plot. In the present case the firm M/s Venktesh Lalit Kumar has been working since 1988 as such older from the firm M/s Vishal Enterprises. Therefore, the firm M/s Venktesh Lalit Kumar only is entitled for allotment in the New Grain Market..... The representation of M/s Vishal Enterprises is hereby rejected being not eligible for allotment of plot as per provisions of Rules.”

5) The revision preferred against the aforesaid decision was in turn rejected vide the order (Annexure P-14) dated 2nd of June 2010 passed by the Financial Commissioner and Principal Secretary To the Government of Haryana, Agriculture Department who found no merit in the revision application. The Review petition preferred by the petitioner firm against the aforesaid order in Revision was rejected by the Additional Chief Secretary by his detailed order (Annexure P-18) on 17th of March, 2016.

6) Having considered the contentions raised by the Ld. counsel for the petitioner, vis-a-vis the available material on record, we find no illegality or infirmity in the impugned orders passed by the concerned authorities. We say so for the reason that admittedly the license in favour of M/s Venkatesh Lalit Kumar alone had been issued at the initial stage for the concerned shop in the old Grain Market. Thereafter on account of a private arrangement of family partition between the two brothers at the instance of their father, M/s Vishal Enterprises also started running from the same premises for which the requisite license was subsequently got issued against payment of the nominal License Fee. But it was not at all a case of any fresh allocation of License for starting business in a new premises in favour of the 2nd proprietorship firm. The two decisions of the Supreme Court cited by the petitioner being '**M/s Prem Chand Trilok Chand & Ors. Vs. State of Haryana & Ors.**' in Civil Appeal No.3123 of 1991 and '**M/s Labha Ram & Sons Vs. State of Punjab**' (1998 AIR (SC) 2086) are not applicable in the present case since the petitioner firm surely has the option to procure a premises/Shop in the New Grain Market through open auction against payment of the prevailing market price, as one premises at the Reserve Price has already been granted in favour of the original licensee—proprietorship

firm running from the old premises and it is not at all a case where allotment of one premises in lieu of the old one as a single unit, has been denied.

7) We therefore find no reason to interfere with the impugned orders passed by the respondent authorities. The Writ Petition is therefore dismissed.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

January 20 , 2017
AS

Whether speaking/reasoned : ***Yes/No***

Whether Reportable : ***Yes/No***