

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

CWP-7592-2015 (O&M)

Date of decision:- 10.08.2017

Gopal Alu Bhandar and others
...Petitioners

Versus

State of Haryana and others
...Respondents

CWP-8080-2015 (O&M)

M/s Jai Shree Ram Fruit Company and another
...Petitioners

Versus

State of Haryana and others
...Respondents

CWP-8098-2015 (O&M)

M/s Rakha Ram Naresh Kumar and others
...Petitioners

Versus

State of Haryana and others
...Respondents

CWP-9388-2015 (O&M)

Pesh Fruit Merchant and others
...Petitioners

Versus

State of Haryana and others
...Respondents

CWP-10392-2015 (O&M)

M/s Kisan Fruit Company
...Petitioner

Versus

State of Haryana and others
...Respondents

CWP-11320-2015 (O&M)

M/s Ishwar Singh Ved Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

CWP-11570-2015 (O&M)

M/s Shree Om Fruit Company

...Petitioner

Versus

State of Haryana and others

...Respondents

CWP-11656-2015 (O&M)

Bhoop Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CWP-19574-2015 (O&M)

M/s Rawat Traders and another

...Petitioners

Versus

The State of Haryana and others

...Respondents

CWP-22638-2015 (O&M)

M/s Chaman Singh and Sons

...Petitioner

Versus

The State of Haryana and others

...Respondents

CWP-22660-2015 (O&M)

M/s Khurana Trading Co.

...Petitioner

Versus

The State of Haryana and others

...Respondents

CWP-24756-2015 (O&M)

M/s Gan Nayak Fruit Company and another
...Petitioners

Versus

State of Haryana and others
...Respondents

CWP-25142-2015 (O&M)

M/s Shiv Fruit Company
...Petitioner

Versus

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. Sarvjit Singh Khurana, Advocate,
for the petitioners in CWPs-7592 & 9388-2015.

Mr. Anurag Jain, Advocate,
for the petitioners in CWP-8080-2015.

Mr. Rajnish Gupta, Advocate,
for the petitioners in CWPs-8098, 10392, 11320, 11570,
11656, 24756 & 25142-2015.

Mr. Jagdish Manchanda, Advocate,
for the petitioners in CWPs-19574, 22638 & 22660-2015.

Mr. R.K.S. Brar, Additional Advocate General, Haryana,
with Mr. Ayuwan Singh, AAG, Haryana,
for respondent No. 1 in CWPs-7592, 8080, 8098, 9388,
10392, 11320, 11570, 11656, 19574, 22638, 22660, 24756 &
25142-2015.

Mr. Amar Vivek, Advocate,
and Ms. Rashi Gosain, Advocate,
for respondents No. 2 and 3 in CWPs-7592, 8080, 9388,
10392, 11320, 11570, 19574, 22638, 22660 & 24756-2015,
for respondents No. 2 to 5 in CWPs-8098 & 11656-2015,
and for respondents No. 2 to 4 in CWP-25142-2015.

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

The above writ petitions fall into various categories
which we will shortly mention. The petitioners in all these

petitions essentially seek the allotment of premises on a preferential basis under the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 and in particular Rule 3 thereof.

2. In some of the cases, representations have been made by the petitioners for the allotment of the premises under the said Rules which are pending before the authorities concerned. In some of the cases, the petitioners or the respondents have filed applications for review or revision. The review and revision applications are pending before the authorities concerned. In yet another group of matters, the petitioners have directly challenged the order of the Chief Administrator without availing the alternate remedy of filing a review.

3. Each of the cases requires an examination of the facts therein. For instance, in some cases, the question is whether the petitioners are entitled to separate allotments on account of bifurcation of the premises. In some of the cases, the question is whether the petitioners were in fact entitled to or were occupying premises in the Old Sabzi Mandi in lieu whereof they are entitled to the benefit of a preferential allotment under the said Rules. It is difficult in these petitions under Article 226 of the Constitution of India to determine these questions of fact. The petitioners must avail the alternate remedy. Even in cases where the respondents have filed the applications for review, it would make no difference. The parties must await the result of the revisional authorities.

4. In CWP-7592-2015, CWP-8080-2015, CWP-19574-2015, CWP 22638-2015 and CWP-22660-2015, the issues are pending either before the reviewing authority or the revisional authority. These petitions are disposed of leaving the petitioners and the respondents to pursue their remedies before the authorities concerned. Any party aggrieved by the orders is always at liberty to challenge the same in accordance with law.

5. In CWP-10392-2015, CWP-11320-2015, CWP-11570-2015, CWP-24756-2015 and CWP-25142-2015, the petitioners have challenged the order of the Chief Administrator, Haryana State Agricultural Marketing Board, Panchkula. For the reasons already stated, these writ petitions are disposed of by relegating the petitioners to the alternate remedy of filing revision applications. The revision applications shall be heard on merits, if filed on or before 01.09.2017.

6. In CWP-8098-2015, CWP-9388-2015 and CWP-11656-2015, the representations made by the petitioners are pending. These petitions are disposed of by directing the Chief Administrator or his nominee or any other officer who may hereafter be authorized to respond to the representations.

7. In the event of the applications for the preferential allotment being rejected and the respondents deciding to refund any amounts to the petitioners, the authorities concerned shall also decide whether such parties are entitled to interest or not. If they are entitled to interest, the rate of interest and the period for which such interest is payable shall also be decided by the authorities concerned.

8. We record Mr. Amar Vivek's statement on behalf of the respondents that the petitioners will not be dispossessed from the premises occupied by them in the Old Sabzi Mandi till their respective cases are decided and if adverse to the petitioners for a period of four weeks after the service of the orders upon them. The statement is accepted and it is so ordered.

9. There are certain cases where specific plots have been allotted to the petitioners pursuant to certain orders. In cases, where plots have been specified, status-quo shall be maintained by the respondents till the decision in the respective cases and if adverse to the party concerned for a period of four weeks after the service of the order upon the party.

10. We would request the authorities concerned to decide the representations/review applications/revision applications as expeditiously as possible and preferably by 28.02.2018.

11. Mr. Amar Vivek stated that the petitioners, whose rights are disputed by the respondents, will also be permitted to participate in the draw of lots, but the same shall be subject to the result of the aforesaid proceedings. That appears to be desirable as there is no reason to hold up the entire process of the draw of lots which would affect the other parties who have already been found to be eligible or who are otherwise eligible to participate in the draw of lots.

12. This order does not in any manner whatsoever affect the auction process that the respondents may undertake. That is a separate matter altogether.

13. It is agreed that the auction would be only of plots beyond the number of plots claimed by the petitioners. Needless to clarify that the auction process, however, shall not affect the petitioners' rights, if established.

14. The writ petitions are accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

10.08.2017

Amodh

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