

Sr. No.222

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

**LPA-950-2016(O&M)**

**Date of Decision: January 16, 2017**

Rajinder Kumar

....Appellant

**VS.**

Union of India and others

....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE DR. SHEKHER DHAWAN**

**Present:-** Mr.Kanwaljit Singh, Sr. Advocate  
with Mr. Tarunjit Singh, Advocate for the appellant.  
Mr. Ashish Kapoor, Advocate  
for respondents no.2 to 4.

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**MAHESH GROVER, J**

This petition is directed against the judgment dated 17.03.2016  
of the learned Single Judge.

The facts indicate that an advertisement for grant of retail outlet  
was issued on 18.09.2011 and the appellant as also another incumbent were  
interviewed on 28.12.2011. According to the result which is on record as  
Annexure P1, the appellant scored more marks than the second incumbent  
and was declared successful. Accordingly, an order was passed issuing the  
*letter of intent*.

Before the retail outlet could be commissioned, Annexure P5  
was passed on 26.03.2013 holding both the incumbents ineligible for the

outlet. A perusal of Annexure P5 would indicate that reason for doing so was the inability of the appellant to offer land whose title and possession was absolutely free. There was a civil suit pending *inter se* between the parties regarding partition of the shares. It may be necessary to notice here that both the incumbents were co-sharers in the land.

Learned counsel for the appellant contends with reference to the Criteria for Allocation of Marks (which may be extracted here below) that it makes no mention of any such contingency which has now been used to scuttle the allotment in his favour. The only contention that there should be a confirmed offer of the land for the purpose.

ALLOCATION OF MARKS ON VARIOUS PARAMETERS

| Parameter                                                                                                             | Sub Heads                        | Description                                                                                                                                                                                                                                                                                                  | Max. Marks | Evaluation                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-------------------------------------------------------------------------------------------------------------|
| Capability to provide Land and infrastructure/ facilities (Max. 35 marks applicable to individual and non-individual) | Suitabl e land for retail outlet | <b>'A' site</b><br>Having clear title to land “own land” / Registered sale deed as on date of application<br><b>'B' site</b><br>Having clear title to land “own land” / registered sales deed / having land on long lease (registered) for a minimum period of 19 years 11 months as on date of application. | 35         | Based on verifying the documents submitted and evaluation of committee as explained in Pt. 14 and 15 below. |
|                                                                                                                       |                                  | <b>'A' site</b><br>Having “firm offer” of land for purpose<br><b>'B' site</b><br>Having “firm offer” of land for purpose/long lease.                                                                                                                                                                         | 25         |                                                                                                             |
| Capability to provide Finance (Max.25 marks applicable to individual and                                              | Financ ially sound               | <b>Ready availability of Finance (20 marks)</b><br><br><b>Liquid cash</b> in the form of bank balance, Fixed deposits, shares of listed companies etc.                                                                                                                                                       | 12         | Based on verifying the documents submitted.                                                                 |

|                 |  |                                                                                                                            |   |                                                    |
|-----------------|--|----------------------------------------------------------------------------------------------------------------------------|---|----------------------------------------------------|
| non-individual) |  | <b>Fixed and movable assets</b> includes own land, buildings, shops, house, vehicles etc.                                  | 4 | Valuation report duly certified by Govt.           |
|                 |  | Income includes agricultural income, business income, interest, rent, royalty etc. duly supported by documentary evidence. | 4 | Approved Valuers in support of assets is necessary |

Apart from this, it is contended that no opportunity of hearing was ever afforded to the appellant before cancelling the *letter of intent* which argument is countered by the learned counsel for the respondents to contend that it was merely re-verification of a document which was already on record and warranted no such procedure to be adopted.

After hearing learned counsel for the parties, we are of the opinion that once a *letter of intent* had been validly issued in favour of the appellant, any order adverse to him could not have been passed without affording him opportunity of hearing. It was incumbent upon the respondents who passed an adverse order against him to permit him to refute the same. In the given circumstances, it is quite possible that the appellant and the other incumbent had some other land to offer and a hearing if offered could have been utilized to offer a level playing field to the aspirants.

Consequently, without going into the other aspects of the matter, we would deem it appropriate to set aside the impugned order on the ground that the principles of audi alteram partem have been seriously compromised to prejudice the cause of the appellant. The matter is remitted back to the Corporation to have a fresh look at the matter by affording an opportunity to the appellant as also the other claimant.

Disposed of accordingly.

(MAHESH GROVER)  
JUDGE

January 16, 2017  
mamta

(SHEKHER DHAWAN)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |