

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

1. CWP No. 15841 of 2011
Date of Decision: 12.2.2018

Anita Chaudhary**Petitioner**

v.

Chandigarh Administration and others**Respondents**

2. CWP No. 16484 of 2011

Ashwani Kumar**Petitioner**

v.

The Chandigarh Administration and others**Respondents**

CORAM HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. G.S. Bal, Senior Advocate with
Ms. Lavinder Kaur, Advocate (in CWP No.15841 of 2011)
Mr. Pankaj Maini, Advocate (in CWP No. 16484 of 2011)
for the petitioners

Mr. Suvir Sehgal, Senior Standing Counsel with
Mr. Tarun Walia, Advocate,
Ms. Deepali Puri, Advocate
for UT, Chandigarh

Mr. Sailesh Gupta, Advocate, amicus curiae

RAKESH KUMAR JAIN, J (Oral) :

This order shall dispose of two petitions bearing CWP No. 15841 of 2011 titled as **Anita Chaudhary v. Chandigarh Administration and others** and CWP No. 16484 of 2011 titled as **Ashwani Kumar v. The Chandigarh Administration and others** as the issue involved in these petitions is common. However, for the sake of convenience, the facts are

being extracted from CWP No. 15841 of 2011.

This petition is filed for seeking the issuance of a writ in the nature of certiorari for quashing the order dated 23.8.2011 by which the petitioner was asked to vacate the Vita Milk Booth on a very short notice and for issuance of a writ in the nature of mandamus directing the respondents to permit the petitioner to continue on the Vita Milk Booth situated in Sector 51A, Chandigarh or to allot another site or such type of booth.

It is submitted that the main writ petition had become infructuous but on 3.10.2017 this Court had appointed Sh. Shailesh Gupta, Advocate as amicus curiae to assist the Court, as it was not clear as to what kind of a decision making process is with the Chandigarh Administration for allotment of booths in garden/parks/green belts and to find out as to whether any rule or bylaws are there which governs the allotment of such booths and whether any Committee has been constituted for taking a decision regarding it.

Mr. Sehgal, Senior Standing Counsel for Chandigarh Administration has produced a communication from the Secretary, Estates Chandigarh Administration dated 6.10.2017 made to the Commissioner, Municipal Corporation, Chandigarh in regard to the allotment of Milk Booth Sites in Chandigarh, in which it is mentioned that the Estate Officer has been authorised to allot 64 new Milk Booth Sites (33 for Vita and 31 Verka) to the Haryana Dairy Development Corporation Federation Limited and Punjab State Cooperative Milk Producers Federation Limited subject to the following terms and conditions :

- “i) The milk booth shall be purely on rental basis and monthly licence fee shall be @ Rs.6520/- initially, allotment being for a period of five years;*
- ii) The enhancement of rent shall be 10% of the initial rent fixed after three years;*
- iii) Size of booth shall be 10' X 10' as identified by the Chief Architect, Department of Urban Planning, Chandigarh shown on the enclosed layout plan in “Red” and the construction of booth will be as per the drawing approved by the Chief Architect; No permanent construction shall be allowed at site and only prefabricated structure shall be allowed to set up the booth;*
- iv) The ownership of these sites shall remain with Chandigarh Administration;*
- v) The electricity and water charges shall be borne by the respective agency;*
- vi) The Municipal Corporation shall maintain general cleaningness/ upkeep of the area round the milk booth;*
- vii) Exit/Termination clause : Chandigarh Administration may cancel the license deed after giving one month notice. No compensation shall be payable by Chandigarh Administration to Verka/Vita or any third party interest created by Verka/Vita, for any loss caused due to such cancellation'*
- viii) In case of delay in payment of monthly rent, penal clause as per the norms may be added by Municipal Corporation, Chandigarh at its own level.*
- ix) Violation of other conditions, encroachment of more area, use of site other than permitted use may shall invoke cancellation of milk booth site.”*

Since the only anxiety of the Court was that as to whether the allotment of booths for milk vending is governed by some rules or not, therefore, in view of the aforesaid communication dated 6.10.2017, the Court is satisfied that the allotment of Milk Booth Sites is governed by the terms and conditions which have to be followed by all who are interested in

its allotment.

With these observations, the present cases are being closed as no further order is required to be passed.

Disposed of.

A photocopy of this order be placed on the connected case file.

(RAKESH KUMAR JAIN)
JUDGE

12.2.2018
Ashwani

Speaking/Reasoned	Yes/No
Reportable	Yes/No