

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.16480 of 2015
Date of Decision: 03.04.2018

Garg Marble and Sanitary House

. Petitioner

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Mohan Lal Singla, Advocate, for the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

Mr.Deepak Manchanda, Advocate for respondent No.4.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing the impugned letter/order dated 10.3.2015 by which application for grant of compensation in terms of Guidelines dated 03.01.2014 has been declined.

In brief, the petitioner has the shop in the name of Garg Marble and Sanitary House situated at the main road Barwala, District Hisar. On 26.11.2014 a fire broke out in the shop which was extinguished by the fire brigade and loss of ₹2,50,000/- suffered by the petitioner was reported by the fire officials. Thereafter the petitioner made an application for compensation in terms of the Guidelines dated 03.01.2014, issued by the Director, Urban Local Bodies, Haryana for the loss of commercial property of small shopkeepers, rehriwalas, fadiwalas, khokha/kiosk owners because of fire, electrical hazards, floods, earthquakes or natural disasters. In Clause

3 of the Guidelines, the following urban properties were defined to be eligible for compensation: -

- “1. Shop upto area of 100 sq. feet for Municipal Corporation, 125 sq. feet for Municipal Council and 150 sq. feet for Municipal Committee.
2. Rehri
3. Fadi
4. Khokha/kiosk”

Tables are also provided in the Clause 7 of the Guidelines of Municipal Corporation, Municipal Council and Municipal Committee for the purpose of awarding compensation, which are as under:

“(a) Municipal Corporation:

Sr. No.	Category	Loss in Rupees	% of compensation
1.	Shop (upto 100 sq. feet)	Damage upto 1 lac	100%
		Damage between 1 lac to 2 lac	75%
		Damage between 2 lac to 3 lac	60%
		Damage between 3 lac to 5 lac	50%
		Damage between 5 lac to 7 lac	40%
		Damage between 7 lac to 10 lac	30%
		Beyond 10 lac	0%
2.	Khokha/kiosk	Damage upto	100%

		0.30 lac	
		Damage between 0.30 lac to 0.50 lac	75%
		Damage between 0.50 lac to 1 lac	60%
		Damage between 1 lac to 1.5 lac	50%
		Beyond 1.5 lac	0%
3.	Rehri/Fadi	Damage upto 0.30 lac	100%
		Damage between 0.30 to 0.50 lac	75%
		Beyond 0.50 lac	0%

(b) Municipal Council:

Sr. No.	Category	Loss in Rupees	% of compensation
1.	Shop (upto 125 sq. feet)	Damage upto 1 lac	100%
		Damage between 1 lac to 2 lac	75%
		Damage between 2 lac to 3 lac	60%
		Damage between 3 lac to 5 lac	50%
		Damage between 5 lac to 7 lac	40%
		Damage between 7 lac to 10 lac	30%

		Beyond 10 lac	0%
2.	Khokha/kiosk	Damage upto 0.30 lac	100%
		Damage between 0.30 lac to 0.50 lac	75%
		Damage between 0.50 lac to 1 lac	60%
		Damage between 1 lac to 1.5 lac	50%
		Beyond 1.5 lac	0%
3.	Rehri/Fadi	Damage upto 0.30 lac	100%
		Damage between 0.30 to 0.50 lac	75%
		Beyond 0.50 lac	0%

(c) Municipal Committees:

Sr. No.	Category	Loss in Rupees	% of compensation
1.	Shop (upto 150 sq. feet)	Damage upto 1 lac	100%
		Damage between 1 lac to 2 lac	75%
		Damage between 2 lac to 3 lac	60%
		Damage between 3 lac to 5 lac	50%
		Damage between 5 lac to 7 lac	40%

		<i>Damage between 7 lac to 10 lac</i>	<i>30%</i>
		<i>Beyond 10 lac</i>	<i>0%</i>
<i>2.</i>	<i>Khokha/kiosk</i>	<i>Damage upto 0.30 lac</i>	<i>100%</i>
		<i>Damage between 0.30 lac to 0.50 lac</i>	<i>75%</i>
		<i>Damage between 0.50 lac to 1 lac</i>	<i>60%</i>
		<i>Damage between 1 lac to 1.05 lac</i>	<i>50%</i>
		<i>Beyond 1.5 lac</i>	<i>0%</i>
<i>3.</i>	<i>Rehri/Fadi</i>	<i>Damage upto 0.30 lac</i>	<i>100%</i>
		<i>Damage between 0.30 to 0.50 lac</i>	<i>75%</i>
		<i>Beyond 0.50 lac</i>	<i>0%</i>

The application of the petitioner for compensation was approved by the Secretary, Municipal Committee, Barwala to the effect that he had suffered loss to the tune of ₹2,50,000/- in the fire incident which took place on 26.11.2014. However, the application of the petitioner has been declined by the respondents much less the Sub Divisional Officer (Civil), Barwala on the ground that the petitioner did not fulfill the terms and conditions of the Guidelines. Since, it was not disclosed in the impugned letter/order dated 10.3.2015 as to how the petitioner did not fulfill the requisite requirements, the petitioner made a representation which was not decided. Hence, the present petition has been filed in which after notice, the

respondents have filed their reply and has stuck to their stand that the petitioner is not entitled for compensation as he is not covered by the Guidelines because the Guidelines are meant for the shops and not for the godowns.

Learned counsel for the petitioner has argued that godown is part of the shop and therefore, the loss suffered by the petitioner in the fire took place in the godown has to be considered in terms of the Guidelines, especially when there is a recommendation made by the Secretary, Municipal Committee, Barwala in this regard.

Learned counsel for respondent No.4 has submitted that the Guidelines were made for the small shopkeepers, rehriwalas, fadiwalas, khokha/kiosk owners and for that matter, the area is also provided of the shop to which the Guidelines would apply for example, it is submitted that the Guidelines would apply to the shop having the area of 100 sq. feet if it is situated in the Municipal Corporation, 125 sq. feet if it is situated in the Municipal Council and 150 sq. feet if it is situated in the Municipal Committees. Since it is a case of Municipal Committee Barwala, therefore, the petitioner had to prove that the area of the godown in which the fire took place was more or less 150 sq. feet. There is no such averment made in the petition about the size of the godown, probably the petitioner knew that if the size of the godown is mentioned, which may be more than 150 sq. feet, then he would not be found eligible for compensation.

Be that as it may, since the petitioner is claiming compensation in terms of the Guidelines, therefore, he has to come within the four corners of the Guidelines for the said purpose. Firstly, the property of the petitioner

was not a shop and is rather a godown and secondly, if it is to be presumed that the godown is a part of the shop then the petitioner has to plead and prove that the said shop/godown was not more than 150 sq. feet, being situated in the Municipal Committee, Barwala. In the absence of necessary pleadings, the petitioner would not become eligible for the purpose of claiming compensation as the very purpose of issuance of the Guidelines was to give immediate relief to small shopkeepers, rehriwalas, fadiwalas, khokha/kiosk owners who would suffer because of fire, electrical hazards, floods, earthquakes or natural disasters and lose their livelihood. There was no such idea of giving compensation to the persons whose shops are of the bigger size than one mentioned in the Guidelines. Since, there is no such pleading to this effect that the property in dispute in which the fire took place was about the size of 150 sq. feet being situated in Municipal Committee, Barwala, the respondents are well within their right in holding that the petitioner is not fulfilling the basic requirements of the Guidelines and has rightly turned down the claim made by the petitioner.

No other argument is raised.

In view thereof, I do not find any merit in the present petition and the same is hereby dismissed.

03.04.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No