

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

[1] Civil Writ Petition No.17484 of 2014.
Date of Decision: September 26, 2018

M/s Pappu Alu CompanyPetitioner

versus

State of Punjab and othersRespondents

[2] Civil Writ Petition No.13310 of 2014

M/s Rana Fruit and Vegetable MerchantsPetitioner

versus

State of Punjab and othersRespondents

[3] Civil Writ Petition No.17451 of 2014

M/s Kamboj Fruit & Vegetable CompanyPetitioner

versus

State of Punjab and othersRespondents

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

Present: Mr.Naresh Jain, Advocate, for the petitioner(s).
Mr.Sandeep Vermani, Additional AG, Punjab.
Mr.Sanjeev Sharma, Advocate, for respondent Nos.2 to 4.
Mr.L.S.Sidhu, Advocate, for private-respondents.

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Surya Kant, J. (Oral)

This order shall dispose of the above-captioned three writ petitions in which the petitioner(s) seek quashing of the orders passed by Authorities under the Punjab State Agricultural Marketing Board (Sale and Transfer of Plots) Rules, 1999 read with Punjab State Agricultural Produce Markets Act, 1961, whereby their claims for allotment of shop-sites in the New Sabzi Mandi at Sanaur Road, Patiala at reserved price being 'old licensees' of the old Sabzi Mandi known as Partap Market, has been turned down.

The Old Sabzi Mandi at Patiala known as Partap Market was

notified way back in the year 1963. The notified area, keeping in view the prevailing requirements, was a small plot where 25 vegetable and fruit vendors were carrying their business. The notified area was known as B.N.Khalsa School site and it fell between Raggo Majra road on one side and Ganda Nala on the other. The business at the above-stated Sabzi Mandi expanded in due course of time and it so happened that various shopkeepers like petitioners constructed their shops on the other side of Ganda Nala-cum-road, outside the notified area/yard. The petitioners were granted licenses and they have been paying the licence fee regularly. They also fulfill all other eligibility conditions prescribed under Rule 3 for allotment of site at 'reserved price' to old licensees at the de-notification of old Sabzi Mandi and on establishment of a New Sabzi Mandi in terms of the binding principles evolved in Labha Ram versus State of Punjab and others, 1998(5) SCC 207.

The only condition of eligibility which the petitioners do not fulfill is that their shops are not situated within the notified area/yard of old Sabzi Mandi, as such notified area ends upto Ganda Nala-cum-road, whereas the petitioners have constructed their shops beyond that area. The petitioners are said to be running business from the last 50 years or so. The site-plan placed on record by the respondents, i.e., R-2/5 in fact explains the entire case and on seeing the same, it appears that the solitary condition, namely, that the petitioners' shops do not fall within notified Mandi area may not be a strong impediment for not allotting them sites in New Sabzi Mandi. At best, the petitioners may not be treated as par with 'old licensees' whose shops are within the notified area. To say it differently, the petitioners constitute a class apart and they cannot claim parity with old

licensees. But they are surely at a better footing as compared to the new entrants. In such like situation, the equity can be effectively balance by allotting sites to the petitioners at the rate higher than the 'reserved price' fixed for old licensees but such price may be less than the average of auction price on which the shops have been allotted through bid process.

Suffice to observe that such like issues involve a conscious policy decision to be taken by the State Government in consultation with the Punjab State Agricultural Marketing Board. The writ petitions are thus disposed of with a direction to the respondents to re-visit the claim of the petitioners in the light of the observations made herein-above and take a holistic view on uniform basis, which may be application throughout the State. It shall be appreciated if an appropriate decision is taken within a period of four months from the date of receiving a certified copy of this order.

[SURYA KANT]
JUDGE

September 26, 2018

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(SUDIP AHLUWALIA)

JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No