

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 2044 of 2016 (O&M)

Date of Decision : 16.05.2018

Rajinder Kumar

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJBIR SEHRAWAT

Present : Mr.Nimanyu Gautam, Advocate for
Mr. Navdeep Chhabra, Advocate for the petitioner(s)

Mr.Sahil Sharma, DAG, Punjab

Mr. Balwinder Singh, Advocate for respondent nos. 3 and 4

MAHESH GROVER, J.(ORAL)

In this writ petition, the petitioner prays for setting aside the order dated 6.1.2015, 17.7.2013 and order dated 17.3.2009.

In a draw of lots for allotment of booths/sites held on 17.1.2008, the petitioner participated and was allotted a booth requiring an amount of Rs.5,000/- to be deposited within 30 days thereafter, which he failed to do within the time stipulated. However, the amount was deposited after a delay of 12 days.

The respondents cancelled the allotment on 4.11.2008. According to the petitioner this was an ex-parte order which was not communicated to him till the year 2009. The appeal was preferred by the petitioner on 17.7.2013, which was dismissed. A revision against the order

of the appellate authority met with the same fate on 6.1.2015.

During this interregnum, the petitioner deposited a sum of Rs.1,01,600/- on 8.5.2012 and the learned counsel for the petitioner refers to its receipt (Annexure P-3) to contend that the previous orders would lose their significance in view of the amount being accepted.

Learned counsel for the respondents no.3 and 4 refers to the receipt and the endorsement thereon to contend that it would not confer any right upon the petitioner as it clearly mentions that in case if the site stands resumed or cancelled, the amount would be refunded. For the purposes of reference, endorsement on Annexure P-3 is reproduced herebelow:-

“Subject to verification from the office record. It is plot/house/commercial industrial/ institutional is found already resumed/ cancelled/ under litigation, then the Payment in question will be refunded.

Note: Please quote invariably the above Registration Number for any correspondence with the Authority.”

We have heard learned counsel for the parties in the backdrop of the facts noticed above and are of the opinion that the petitioner cannot legitimately lay a claim to the allotment of booth once having defaulted initially in making payment within the stipulated time and thereafter not questioning the order of cancellation till atleast 5 years after the order came into existence. Even if it is assumed for the sake of argument that he did not have knowledge of the order till i.e 2009 then also appeal was clearly filed belatedly. Therefore, there would be no occasion to accept the prayer for allotment of booth considering the laxity and lapses on the part of the petitioner himself. Merely because an amount is deposited would confer no

right upon the petitioner as the endorsement on the receipt clearly mentions the payment subject to verification. Evidently the booth site stood cancelled in 2008 and the amount deposited would not create any special right in favour of the petitioner. Hence, instant petition is hereby dismissed. However, since the amount of Rs.1,01,600/ is lying with the respondents they would be under an obligation to refund the same, if not already done. If the amount has been refunded, this would be an end of the controversy but if not, then the refund shall be made to the petitioner within a period of four weeks from today alongwith interest at the rate of 7% per annum from the date of its deposit till the date of making payment.

(Mahesh Grover)

Judge

16.05.2018

rekha

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(Rajbir Sehrawat)

Judge