

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

CWP No.23894 of 2016 (O&M)

Date of Decision: 27.09.2018

Ajay Kumar & Ors.

...Petitioners

VS.

State of Haryana & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. Gopal Sharma, Advocate for the petitioners

Mr. Ravi Dutt Sharma, DAG Haryana

Mr. Abhay Gupta, Advocate for

Mr. Amar Vivek, Advocate for respondents No.2 to 4

SURYA KANT J. (Oral)

(1) The auction of shops and booth sites in the New Fruit and Vegetable Market, Bawal, Rewari was conducted on 27.04.2015. The petitioners participated in the auction in respect of the sites mentioned in para No.3 of the writ petition and were issued allotment letters dated 26.11.2015 (P7). Besides other terms and conditions in the allotment letters, its Clause 24 reads as follows:-

“The allotment shall be subject to the outcome of the final order of the Hon'ble Punjab & Haryana High Court in C.W.P. No.7592 of 2015 titled as Gopal Alu Bhandar and others vs. State of Haryana and others.”

(2) The petitioners thereafter represented that since the shop/booth sites were ‘under dispute’, they were not interested in the allotment and let 25% bid amount deposited by them be refunded. As their claim has not been accepted by the Administrator of Market Committee, Rewari, they have

approached this Court.

(3) It is necessary to dwell upon the nature of dispute involved in CWP No.7592 of 2015 (Gopal Alu Bhandar & others vs. State of Haryana & Ors.) filed by the old licensees, claiming allotment of booth/shop sites at reserve price in accordance with Rule 3 of the ***Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000***. Under these Rules, an old licensee is entitled to have preferential right of allotment at reserve price subject to the eligibility conditions and keeping in view the law laid down by Hon'ble Supreme Court in ***Labha Ram vs. State of Punjab & Ors. (1998) 5 SCC 207***. It is in this backdrop that this Court passed an interim order that the auction will be subject to the final outcome of the writ petition filed by the old licensees.

(4) The respondents in their written statement have explained that there are sufficient sites for allotment to petitioners regardless of the pending claim of old licensees. At the same time, it is informed that claims of old licensees are pending consideration before the Chief Administrator, Haryana Agricultural Marketing Board.

(5) The question as to whether the petitioners can be allotted sites for which they have given bid, even if the old licensees are well accommodated, is a question of fact which can be effectively determined by Chief Administrator of the Board. Suffice it to observe that if Chief Administrator finds that on acceptance of preferential claim of old licensees, the petitioners cannot be allotted sites for which they have given bid, in that case, the petitioners will be entitled to seek refund of the amount. Similarly, if due to inordinate delay in determination of the claim of old licensees, the development works are yet to be completed, then the Chief Administrator must consider the claim of alternative relief sought by the petitioners, say,

for waiving off interest on instalments and/or extension of moratorium period for construction. Let such claims of the petitioners be also decided by Chief Administrator of the Board along with those of the old licensees within a period of four months from the date of receipt of certified copy of this order. The petitioners shall submit copy of this writ petition as their comprehensive claim petition before the Chief Administrator of the Board. In case the Chief Administrator decides to uphold the allotments in favour of petitioners, it shall be ensured that the physical possession of the allotted sites is also delivered to them within one month from the date of adjudication of the respective claims.

(6) Disposed of accordingly.

(Surya Kant)
Judge

27.09.2018
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No