

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.21333 of 2017
Date of decision: 2.7.2018

M/s Kuldeep Sharma and company

...Petitioner

Versus

State Agricultural Marketing Board and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr.Rakesh Bhatia, Advocate for the petitioner.

Mr.Kuldip Tewari, Advocate for respondent No.2.

Rakesh Kumar Jain, J. (Oral)

This petition is filed by the proprietorship firm through its proprietor to challenge the order dated 25.7.2017 passed by the Secretary, Market Committee, Chandigarh by which he has been asked to submit the rent deed for a period of three years and also the ownership proof of the premises of the owner in order to consider his application filed under Section 10 of the Punjab Agricultural Produce Markets Act, 1961 (for short 'the Act').

Learned counsel for the petitioner has submitted that neither in the Act nor in the Punjab Agricultural Produce Market (General) Rules, 1962 (for short 'the Rules') any provision is there which mandates the submission of rent deed for a period of three years and also regarding the proof of the ownership of the person letting out the premises. Counsel for the respondents has however, referred to Rule 17(2) of the Rules to contend that since the license is generally issued for three years, therefore, the Market Committee has asked the

petitioner to ensure his occupation in the demised premises for atleast three years. It is also submitted by counsel for the respondents that the petitioner has otherwise a remedy to file appeal in terms of Section 10(4) of the Act before Secretary of the Board.

Counsel for the petitioner has submitted that the appeal would lie if the license is refused in terms of Section 10(3) of the Act and since the license has not been issued so far, therefore, the appeal would not be maintainable. It is further submitted that grievance of the petitioner is that respondents have put a condition in the impugned order which is not supported by law and therefore, the present petition has been filed for seeking a writ in the nature of certiorari for quashing the said condition.

I have heard learned counsel for the parties and after perusal of the material available on record, am of the considered opinion that there is merit in the submission made by the counsel for the petitioner. Firstly, the appeal under Section 10(4) of the Act would lie against the order of refusal to grant license but in the present case there is no order of refusal, therefore, the appeal would not lie. The issue is only as to whether the respondents can put a condition that the applicant/petitioner had to submit the rent deed for atleast three years and also to submit ownership proof of the premises?

Rule 17(2) only talks of the fee at the time of issuance of license which may be for a period of three years or a lesser period. It does not talk at all about the premises to be taken on rent by the petitioner atleast for three years.

Therefore, I am of the considered opinion that the condition imposed by the respondents in the impugned order is totally unwarranted and therefore, the present writ petition is hereby allowed and the condition imposed

in the impugned order of submitting the rent deed for three years and also the proof of ownership is set aside. Application filed by the petitioner under Section 10 for grant of license is still pending before the Secretary of the Market Board, who is directed to decide the same as early as possible but preferably within a period of 15 days from the date of receipt of certified copy of this order. It is however made clear that while considering the application, in case, there is an objection to be raised by the respondents on any other ground, the petitioner be granted opportunity of hearing and after hearing the petitioner, the decision be taken by the authorities.

July 2, 2018
Meenu

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned	:	Yes/No
Whether reportable	:	Yes/No