

**139 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

**CWP No.9816 of 2019
Date of decision : 11.04.2019**

Rajesh Goyal

..... Petitioner

versus

**Chandigarh Industrial Tourism Development
Corporation Limited**

..... Respondent

**CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Balbir Singh Sewak, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner has filed the instant writ petition assailing an order dated 02.04.2019(Annexure P-4) issued by the respondent-Chandigarh Industrial Tourism Development Corporation Limited and in terms of which he has been restrained from selling 'Soya Chaap' from the outlet at Chef Lakeview that had been allotted to him vide contract letter No. 4737 dated 25.05.2018.

Counsel representing the petitioner would submit that petitioner had sought permission from the CITCO authorities to sell an additional item i.e. 'Soya Chaap' from the outlet in question and such request had been acceded to vide letter dated 27.12.2018 at Annexure P-3. It is vehemently contended that the impugned order dated 02.04.2019 (Annexure P-4) has been passed without affording to the petitioner any opportunity of hearing. It is urged that the action of the respondent-Chandigarh Industrial Tourism Development Corporation Limited is arbitrary. Counsel has even referred to

Clause 14 of the allotment/contract letter dated 25.05.2018 and as per which

any change in the authorised trade could be made only with the permission in writing of the licensor. Mr.Balbir Singh Sewak, Advocate, by placing reliance on Clause 14 would attempt to develop a submission that since the request of the petitioner had found favour vide communication dated 27.12.2018 (Annexure P-3), the same could not have been withdrawn without issuance of notice and behind the back of the petitioner.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant petition and the same deserves to be dismissed.

There is no dispute that the petitioner had participated in a tender process and had been allotted a contract for managing and operating a Steamed Corns Outlet at Chef Lakeview, Sukhna Lake, Chandigarh by the respondent-Corporation vide allotment/contract letter dated 25.05.2018 (Annexure P-1). Clause 6 of the allotment letter would be relevant to the issue at hand and reads in the following terms:-

“ The Licensee will be allowed to operated Steamed Corns Counter/Space for selling only corn based items i.e. Corns, Nachos, Corn Chat, Corn on Cob, Corn Momos etc. at reasonable rates. The tenderer/agency will be allowed to sell only those items which are Corns based but will not be allowed to sell items in competition with the items being sold by the Corporation at Chef Lakeview.

Further, the licensee will have to display the menu along with the selling price(as the case may be) for Steamed Corns at the Counter for the convenience of public. In case, the rates are not displayed then either

penalty ranging from 1% to 5% of the license fee will be imposed or contract will be terminated by expressly serving upon the licensee one month's notice at the discretion of the Corporation.

Further, the customers shall be charged reasonable rates for selling Steamed Corn related items. In the event of any complaint, CITCO can initiate the suitable action for termination of the arrangement with a notice period of one month or immediately, as the case may be, in case the situation on any account so warrants during the currency of the arrangement for any reason which may not be conducive for the affairs in any manner.”

Further more, as per allotment letter the licence period was fixed for an initial period of three years on a monthly licence fee of Rs. 80,000/- + GST.

As per clause 6 reproduced herein above, the licensee i.e. the petitioner herein was permitted to operate a Steamed Corns Counter/Space for selling **only** corn based items i.e. Corns, Nachos, Corn Chat, Corn on Cob, Corn Momos etc. at reasonable rates. Such clause further clarified that the licensee was permitted to sell only those items which are corn based.

It goes without saying that the license fee for the outlet allotted to the petitioner had been fixed in relation to the product/food item that he had been permitted to sell. The permission contained in the letter dated 27.12.2018 (Annexure P-3) upon which heavy reliance has been placed was not pursuant to any fair procedure having been followed or by inviting any fresh tender. Further more, such permission had not been granted upon any corresponding increase in license fee.

The licensor was certainly within its powers to take necessary remedial steps so as to permit the trade and business of the petitioner in terms of the original contract/allotment letter dated 25.05.2018 (Annexure P-1).

The submission advanced by counsel as regards violation of the principles of natural justice is concerned, the same is being noticed only to be rejected. The petitioner had participated in a tender process in pursuance to an NIT/DNIT having been issued. Petitioner having been declared successful the allotment/contract had been awarded in terms of the conditions contained in the allotment letter dated 25.05.2018. The petitioner from the very threshold was made clear that he would be entitled to sell only corn based items from the allotted outlet.

Under such circumstances the impugned order/directions vide communication dated 02.04.2019 (Annexure P-4) does not suffer from any patent infirmity.

No interference is called for.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

11.04.2019
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No