

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
115+116**

Date of decision: 24.05.2019

CWP-14007-2019

GULSHAN KUMAR

...PETITIONER

V/S

**PT. B.D.SHARMA UNIVERSITY OF HEALTH SCIENCE ROHTAK
THROUGH ITS REGISTRAR AND OTHERS**

...RESPONDENTS

CWP-14008-2019

SANJAY KUMAR

...PETITIONER

V/S

**PT. B.D.SHARMA UNIVERSITY OF HEALTH SCIENCE ROHTAK
THROUGH ITS REGISTRAR AND OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

**Present: Mr. N.K.Malhotra, Advocate,
for the petitioner(s).**

AUGUSTINE GEORGE MASIH, J. (ORAL)

By this order, I propose to dispose of two writ petitions i.e. CWP No. 14007 of 2019 titled as **Gulshan Kumar vs. Pt. B.D. Sharma University of Health Science Rohtak through its Registrar and others** and CWP No. 14008 of 2010 titled as **Sanjay Kumar vs. Pt. B.D. Sharma University of Health Science Rohtak through its Registrar and others**, whereby the premises in possession of the petitioners i.e. shops have been found to be under their unauthorized possession and, therefore, petitions against them were filed under the Haryana Public Premises Land (Eviction and Rent Recovery) Act, 1972. The said petitions were allowed by the Collector (Sub-Division) Rohtak vide order dated 02.11.2015 (Annexure P-

1), appeals against which preferred by the petitioners have also been dismissed by the Appellate Authority vide order dated 03.04.2019 (Annexure P-3) leading to the filing of these writ petitions challenging these orders.

On considering the submissions made by the counsel for the petitioners, which primarily are that the petitioners have not been given an opportunity to lead any evidence to establish the factum of they being in possession of the premises legally, therefore, the orders cannot sustain, this Court does not find any justification in the assertions, which have been put forth by the counsel for the petitioners in the light of the fact that the petitioners have not disputed the fact that the shops were given on license fee basis for the period from the date of commencement to one year along with terms and conditions mentioned therein. Apart from these conditions, an undertaking was also given by the petitioners that they would vacate the premises after the expiry of the lease period. These terms and conditions as well as the undertaking having been admitted before the authorities below, it cannot be said that the petitioners are in possession of the shops in question legally.

The plea of the counsel for the petitioners that the petitioners have not been given any opportunity to produce any evidence to substantiate that they are in an authorized possession of the premises, cannot be accepted as no justification was forthcoming in the writ petitions also for the said plea. Merely on this plea, the unauthorized possession of the petitioners cannot be regularized.

Learned counsel for the petitioners has placed reliance upon the judgments of this Court in **Sehdev Arya vs. Sham Lal**, 2011 (45) RCR

(Civil) 632 and **Dalip Kumar vs. Bakshish Singh and another**, 2018 (1)

PLR 394. However, these judgments would not be applicable to the facts of the cases in hands as those pertain to the cases filed under the provisions of Haryana Urban (Control of Rent and Eviction) Act, 1973 whereas the cases in hand are under the Haryana Public Premises Land (Eviction and Rent Recovery) Act, 1972. The provisions of the two statutes are different and, therefore, the said judgments would not be applicable to these cases.

That apart, petitioners have already overstayed the premises as the eviction petition was filed on 20.05.2013 and for the last six years, they have been, on one pretext or the other, holding the possession of the shops.

In view of the above, finding no merit in these writ petitions, the same stand dismissed.

May 24, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No