

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 28949 of 2018 (O&M)

Date of Decision: September 09, 2019

Bhanwati and others

.....Petitioners

versus

The Haryana State Agricultural Marketing Board and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY.
HON'BLE MR. JUSTICE SUDHIR MITTAL.**

Present: Mr. C.B. Goel, Advocate
for the petitioners

Sudhir Mittal, J.

The Haryana State Agricultural Marketing Board (hereinafter referred to as the 'HSAMB') issued memo dated 10.12.2008 inviting application for an auction to be held for their plots and booths in several cotton, grain and vegetable markets situated in the State of Haryana. In New Vegetable Market, Bahadurgarh the auction was conducted on 02.01.2009. Five booth plots measuring 12 ft. x 27.5 ft. were also included in the said auction. The petitioners allege that they were the highest bidders for one of these five booth plots and, thus, they were entitled to allotment thereof.

2. It may be noticed that meanwhile, certain old licensees of Market Committee, Bahadurgarh filed CWP No. 21708 of 2008 seeking quashing of memo dated 10.12.2008 inviting the public for open auction on the ground that old licensees of category 2(i) were entitled to allotment of plots at reserve price before the same could be disposed of to the general public. This writ petition was dismissed as withdrawn with liberty to file a fresh one and consequently CWP No.

2034 of 2013 was filed. This petition was disposed of vide order dated 18.09.2013 with directions to the respondents therein to first consider the claims of the old licensees in accordance with Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 and memo dated 10.12.2008 was quashed. Admittedly, the said order was challenged through SLP No. 8879 of 2014 but the same was dismissed vide order dated 24.03.2014 . The petitioners and some other successful bidders meanwhile approached this Court through CWP No. 2649 of 2016 seeking allotment of booth plots but the said writ petition was disposed of by directing the respondents therein to take into consideration the pending representations. Pursuant thereto impugned order dated 29.04.2016 has been passed by the Chief Administrator, Haryana State Agricultural Marketing Board, Panchkula rejecting the claim for allotment of booths. This order was challenged by way of a revision petition but the same was also dismissed vide order dated 03.05.2018. Hence, the present petition has been filed seeking quashing of the said orders and issuance of appropriate direction to the respondents.

3. Learned counsel for the petitioners submits that pursuant to the auction held on 02.01.2009, the petitioners had deposited 25% of the bid amount. Since the year 2009, the respondents have retained money of the petitioners but have not issued any allotment letter. The petitioners have been made to suffer unnecessarily. The impugned order rejecting the claim of the petitioners is perverse as it has failed to take notice of the fact that the petitioners are not at fault in any manner and, therefore, deserves to be quashed. Reliance is placed upon a Full Bench judgment of this Court in ***Subhash Cand vs. State of Harana, 2007(3) RCR(Civil) 548*** and Division Bench judgment dated 03.12.2013 in ***CWP No. 15975 of 2000 Lalit Kumar vs. State of Haryana.***

4. A perusal of order dated 29.4.2016 (Anneuxre P-1) shows that the

representation of the petitioners to allot a booth was rejected on the ground that deposit of 25% of their respective bids did not confer any right on them as no concluded contract came into being. This order was upheld in the revision petition decided vide order dated 03.05.2018. The directions have, however, been issued to the Market Committee, Bahadurgarh to refund the amount received from the petitioners alongwith interest.

5. The aforementioned reasoning can not be faulted. A notice inviting applications for participating in an auction process is an invitation. Pursuant to such an invitation, the highest bidder gets entitled to allotment only if the same is accepted. Even after acceptance, the bid may be rejected for valid reasons. Till the time, the bid is accepted, the bidder only has a right of consideration. From the facts of the present case it is apparent that the bid of the petitioners could not be confirmed as litigation initiated by old licensees of category 2(i) of Bahadurgarh, intervened. Infact, the memo dated 10.12.2008 vide which applications for auction were invited, was quashed by this Court vide order dated 18.09.2013 passed in CWP No. 2034 of 2013 and, thus, the bid made by the petitioners pursuant to said memo was nonest in the eyes of law. The impugned orders are in accordance with law and can not be said to be erroneous in any way. It may also be noticed that with the lapse of time, the prices of land have escalated and this has also weighed with the authorities concerned while passing the impugned orders. Since no right accrued in favour of the petitioners merely upon making the highest bid, the concerned authorities were justified in taking into consideration the increase in prices. If more money is fetched through sale of land, the public exchequer would be benefited and such a consideration can not be said to be perverse or arbitrary.

6. Reliance upon Full Bench judgment of this Court in ***Subhash Chand (supra)*** is misconceived because the said judgment only holds that the highest

bidder could challenge the rejection of his bid if the same is for arbitrary or extraneous consideration. For the same reason the judgment in *Lalit Kumar (supra)* is also not applicable. In the present case, the highest bid of the petitioners could not have been accepted or confirmed after quashing of memo dated 10.12.2018 vide which the notice for auction had been issued.

7. Accordingly, we do not find any reason to interfere with the impugned orders. The writ petition is, thus, dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

September 09, 2019
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No