

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No. 25643 of 2019
Date of decision : 26.09.2019**

M/s Suhash Chander

.....Petitioner

Versus

State of Haryana and others

...Respondents

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

Present : Mr. Shailendra Sharma, Advocate for the petitioner.

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DAYA CHAUDHARY, J.

As per the case of the petitioner, he was running a wholesale fruit shop at Old Vegetable Market, Ambala City since 1991 against licence No.978 dated 02.02.1991 issued by the Market Committee, Ambala City. Said licence was renewed from time to time. Applications were invited on Form-A from old licensees of Vegetable Market, Ambala City for allotment of plot/shop in New Vegetable Market at Ambala City vide letter dated 01.03.2014. Petitioner also moved application and attached all the documentary proofs considering himself to be eligible. However, the claim of the petitioner was not considered and he was informed that he did not attach any proof of ownership/rent and could not prove that he was either owner or tenant of the shop. Accordingly, the application of the petitioner was rejected vide order dated 20.06.2014 on the ground that in shop No.22, one other firm namely M/s Oberoi Food Company was also carrying out business and a plot was already allotted to it. Aggrieved by the order of

rejection of application dated 20.06.2014, the petitioner filed appeal before the Secretary, Haryana State Agricultural Marketing Board, Panchkula, who was delegated powers by the Chief Administrator, Haryana State Agricultural Marketing Board (respondent No.2), which was dismissed vide order dated 08.12.2017. Thereafter, the petitioner filed revision before the Additional Chief Secretary, Agriculture and Farmers Welfare Department, Haryana (respondent No.1), which was also dismissed vide order dated 20.11.2018.

All the three orders *i.e.* order of rejection dated 20.06.2014 (Annexure P-6), order passed in appeal dated 08.12.2017 (Annexure P-8) as well as the order passed by the revisional authority dated 20.11.2018 (Annexure P-9) are under challenge in the present petition.

Learned counsel for the petitioner submits that claim of the petitioner has been rejected without assigning any reason and some of the similarly situated persons have been allotted shop/plot. Petitioner was working since 1991 as a wholesale fruit seller and from a single shop various persons can carry out business but still his claim has been rejected.

Heard arguments of learned counsel for the petitioner. We have also perused the impugned orders as well as other documents on the file.

Facts of the case are not disputed. The claim of the petitioner has been rejected on the ground that he was not found eligible for allotment of plot in view of provisions of Rule 3(1) (VI) of Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 (for short – Rules, 2000). As per said provisions, the allotment can be made in case more than one firms are running from the same premises either being the

owner or the tenant. Petitioner was not found to be owner or tenant as he could not produce any document of ownership/tenancy.

It is not disputed that more than one firms can carry out business from the same premises but for granting benefit of allotment, it is to be made out that the person/firm concerned was using the premises being owner or tenant. Giving preferential right of allotment, the senior most firm was allotted plot as per Rule 3 (1) (VI) of Rules, 2000 being eligible for preferential allotment of plot in case more than one licensee are operating from the same business premises.

Since the petitioner did not submit any proof of ownership or rent qua to shop No.22 for claiming his right over that shop, the senior licensee who also carried out business from the said shop, was given preferential allotment being the senior firm. However, there is no bar that two firms can be allotted plots from one premises provided they are running their business independently from the same premises being the owner or the tenant.

Accordingly, finding no merit in the contentions raised by learned counsel for the petitioner, the present petition is dismissed.

(DAYA CHAUDHARY)
JUDGE

Dated : 26.09.2019

sunil yadav

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No