

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

CWP No. 35986 of 2019

Date of decision : 12.12.2019

Subhash Chand and others

.....Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present : Dr. Vikas Rohal, Advocate for the petitioners.

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DAYA CHAUDHARY, J.

Petitioners are aggrieved by impugned order dated 02.04.2019 (Annexure P-10), passed by the Additional Chief Secretary to Government of Haryana, Agriculture and Farmers' Welfare Department, Chandigarh, whereby revision filed by them has been dismissed and their claim to fix the reserve price for allotment of shops in Market Committee, Panipat, has been rejected.

The Vegetable Market in Panipat was established in new premises of the Market Committee, Panipat. The eligible old licensees, who were carrying on their business from old Vegetable Market, were to be allotted plots on preferential basis in the new market as per provisions of Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 (for short - "Rules, 2000"). Applications were invited from the old licensees and the same were to be submitted on or before 07.07.2009.

The draw of lots was to be on 29.07.2009. However, the date for draw of lots was postponed and it was fixed for 23.06.2010. Accordingly, fresh applications were also invited, which were to be submitted on or before 04.06.2010. Thereafter, again it was postponed. Ultimately, draw of lots was held on 28.12.2011 and plots were allotted to the petitioners. As per decision of the Board of Directors (hereinafter referred to as “BOD”) taken in the meeting held on 28.03.2012, the reserve price for allotment was fixed as per the new formula, which was challenged by the petitioners in CWP No.1925 of 2014. Said writ petition was disposed of with the direction to approach the Revisional Authority and with the direction to decide the revision petition within a period of 4 months.

The Revisional Authority dismissed the revision petition by holding that the reserve price was fixed as per pattern in compliance of the decision taken by BOD in its meeting held on 28.03.2012. It was also observed that the Board is competent to revise the reserve price in view of the provisions of Section 18 of the Haryana Agricultural Produce Markets Act, 1961 (for short – “Act, 1961”).

Learned counsel for the petitioner submits that delay was on the part of the respondent-authorities as draw of lots was to be held initially on 29.07.2009 as applications were invited on 08.06.2009. Subsequently, on various occasions, date was postponed and it was the fault of the respondent authorities. The reserve price should have been fixed by considering the date of submissions of the applications, as at that time policy dated 01.06.1987 was applicable. Said policy was subsequently substituted vide decision dated 28.03.2012. Learned counsel also submits

that policy dated 25.06.2012 was not in existence even on the date of inviting applications or even on the date of draw of lots. No reason, whatsoever, was given for not fixing the reserve price which shows the *mala fide* intention and inaction on the part of the respondent-authorities. At the end, learned counsel for the petitioners submits that impugned order dated 02.04.2019 (Annexure P-10) is liable to be set aside being illegal, unlawful and arbitrary, being contrary to Rules, 2000. Respondent-authorities were required to fix the reserve price of the shops/booths to be allotted to old licensees of Category-II before holding any draw of lots or at the maximum within a period of 30 days from the date of issuance of allotment letter. This fact has not been taken into consideration by the Revisional Authority.

Heard arguments of learned counsel for the petitioners. We have also perused impugned order dated 02.04.2019 and other documents available on the file.

Facts of the case regarding inviting of applications, submissions of the applications, filing of writ petition and the order passed therein, are not disputed. Admittedly, in pursuance of order passed in CWP No.1925 of 2014 filed by the petitioners, the petitioners were relegated to approach the Revisional Authority and a direction was also issued to the Revisional Authority to decide the revision petition within a period of four months from the date of his filing. The claim of the petitioner was rejected on the ground that the BOD was competent to revise the reserve price at any stage before issuing letter of allotment.

As per provisions as provided under Section 18 of the Act,

1961, the BOD is the competent authority and finally it is to be approved by the Board. Accordingly, decision was taken by the BOD. The letter of offer was given to the petitioners in the year 2009, which was subject to final approval of the BOD as per provisions of Section 18 of the Act, 1961. The reserve price was fixed by BOD by adopting the new formula. A decision was taken that reserve price was to be determined by considering the date of issuance of allotment letter and not by considering the date of draw of lots. The new formula was adopted as per the decision taken by the BOD. The reserve price was fixed accordingly. The petitioners have not challenged the policy decision and reserve price fixed by the BOD, which is the competent authority and decision was taken before issuance of allotment letter.

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

(DAYA CHAUDHARY)
JUDGE

Dated : 12.12.2019

sunil yadav

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No