

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

CWP-12264-2020 (O&M)

Date of Decision: September 17, 2020

Nitesh Kumar Sood

..... Petitioner(s)

Versus

State of Punjab and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Shivya Sehgal, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, D.A.G., Punjab.

Mr. B.S. Patwalia, Advocate
for respondent no.2.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner claims to be the successful allottee of a site of a Verka booth for the sale of Verka milk and milk products, pursuant to being successful in a draw of lots, which took place on 17.05.2016. Booth no.9, situated at the park near the auto stand, near Sacred Heart Convent School, J-Block, B.R.S. Nagar, Ludhiana, is stated to have been allotted to the

petitioner. It is submitted that despite initial deposit of Rs.25,000/-, alongwith the application and being successful in the draw of lots, possession of the site was not handed over to the petitioner. Legal notice dated 21.05.2020 (Annexure P-3) was served by the petitioner, which was duly replied by the respondents on 02.07.2020 (Annexure P-4). It is specifically mentioned in the reply to the legal notice that due to public resentment against opening of the milk booth in the area, no milk booth could be built there. Therefore, there was no question of allotment of the site to the petitioner. It is further stated in the reply that the petitioner was very well made aware of the reasons for non-allotment of the booth, therefore, there is no question of any error in non-delivery of the possession of the site. Aggrieved therefrom, present writ petition has been filed for allotment/possession of the said booth and in case, the said booth cannot be allotted to the petitioner, allotment of an alternate booth/site is prayed for.

Learned counsel for the petitioner had sought an adjournment on 20.08.2020 to place on record, copy of the allotment letter purportedly issued to the petitioner. Another opportunity was sought on 01.09.2020 and the matter adjourned for today. Learned counsel for the petitioner, on instructions from the petitioner, states today, that no allotment letter was ever issued to the petitioner.

It is, however, vehemently contended that the respondents have been sitting over the initial deposit of Rs.25,000/-, which was admittedly deposited alongwith submission of the application in 2016, therefore, the respondents are bound to allot another site/booth to the petitioner, who was admittedly successful in the draw of lots. Learned

counsel further submits that now another advertisement for allotment of Verka booths has been issued on 20.07.2020. It is contended that when the petitioner approached the General Manager of respondent No.2, he was told to submit the application form, alongwith the earlier documents and he would be considered for allotment. The petitioner accordingly submitted the application form with earlier documents and sought allotment of a booth having waited for four years. However, allotment of booth, is being denied to the petitioner, while stating that no benefit can be given to the petitioner merely because he was successful in the draw of lots in 2016.

Learned counsel for the petitioner argues that in such a situation, where the petitioner has waited for four years, a milk booth offered for allotment as per advertisement dated 20.07.2020, should be allotted to the petitioner, without any requirement of participation in the fresh draw of lots. Fresh application form alongwith the old/earlier documents as well as the earlier deposit of Rs.25,000/- should be considered and accepted.

Though notice of motion has not been issued as yet, Mr. B.S. Patwalia, Advocate, appears on behalf of respondent no.2, as an advance copy of the petition has been supplied to the said respondent. He points out that once there was no allotment of any booth or site to the petitioner way back in 2016, no right has accrued to the petitioner, who in any case, had chosen to sit silently till the issuance of the legal notice in May 2020. The petitioner is stated to have refused taking back the amount of Rs.25,000/- deposited in 2016, despite the officials asking him to take it back. It is submitted that allotment of the Verka booths, advertised on 20.07.2020, shall be by way of draw of lots, as per the prescribed procedure and the

petitioner has no preferential right for allotment of the milk booth. The petitioner, it is stated could have applied for allotment as prescribed and he would have been able to participate in the draw of lots. It is thus prayed that this writ petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their assistance.

Learned counsel for the petitioner is unable to deny that no allotment letter in respect to Booth No.9, was ever issued to the petitioner. Out of the twenty six booths offered for allotment in March 2016, as many as 10 of them were not allotted, due to resentment of the residents of the area. It is further not in dispute that legal notice was served by the petitioner in May 2020, after a period of four years.

I do not find any ground what-so-ever for issuance of a direction to respondent no.2 for allotment of a Verka booth/site, pursuant to the petitioner being successful in the draw of lots, which took place on 17.05.2016 and especially keeping in view the fact that no allotment letter etc. was ever issued to the petitioner. The petitioner is not entitled to allotment of an alternate booth, out of the booths offered as per advertisement dated 20.07.2020, on the basis of his success in the draw of lots, which took place on 17.05.2016.

The Hon'ble Supreme Court in ***Greater Mohali Area Development Authority and another Vs. Manju Jain and others, 2010(4) RCR (Civil) 224*** has observed as under:-

“22. Mere draw of lots/allocation letter does not confer any right to allotment. The system of draw of lots is being resorted to with a view to identify the prospective allottee. It is only a mode, a method, a process to identify the allottee i.e. the

process of selection. It is not an allotment by itself. Mere identification or selection of the allottee does not clothe the person selected with a legal right to allotment.”

In the above said case the allotment letter had been issued but the allottee had not conveyed his acceptance and the allotment was cancelled. The same was upheld. Reference can gainfully be made to the judgment of the Hon’ble Supreme Court in ***Delhi Development Authority Vs. Pushpender Kumar Jain, 1995 AIR (SC) 1.***

Thus the prayer for allotment of the Verka booth in manner claimed is declined. However, at this stage, it is noticed that the last date of submission of forms/application, with a deposit of Rs.25,000/- was 17.08.2020. The date of draw of lots fixed for 25.08.2020, has admittedly been extended. Though it is contended that the petitioner refused to take back the sum of Rs.25,000/- deposited by him in 2016, Mr. Patwalia candidly accepts that no effort was ever made by respondent no.2 to return the said amount. It is only a verbal assertion that the petitioner was asked to take back the amount. Therefore, keeping in view the facts and circumstances of the case, it is directed that the initial deposit of Rs.25,000/- made by the petitioner, be treated to be the deposit in respect to advertisement of July 2020. In case, the petitioner clears any discrepancy, which may be there in the application that he has submitted and completes all the required documents within two days of receipt of certified copy of this order, he be permitted to participate in the draw of lots, pursuant to the said advertisement dated 20.07.2020.

It is made clear that no right has accrued to the petitioner for any preferential treatment for allotment of the site/Verka booth by way of this order.

This writ petition is disposed of accordingly.

17.09.2020
Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No