

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

**CWP No.19678 of 2020
Date of decision: 07.12.2020**

Sunil Gupta

.... Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. A.G., Punjab.

KARAMJIT SINGH, J.

The petitioner has filed this writ petition for issuance of direction in the nature of certiorari for setting aside public auction notice for auction of cancelled booths of District Administrative Complex Jalandhar (Annexure P-1), it being against the judgment dated 18.11.2015 (Annexure P-2) passed by the Coordinate Bench of this Court in case of “**Jalandhar Licence Association and others vs. State of Punjab and others**”, with further direction to the State to lay down criteria for allotment of booths in the District Administrative Complex, in terms of aforesaid judgment.

2. As per the petitioner, one booth was allotted to his grand father in Tehsil Complex Jalandhar. After his death, the said booth was occupied by Vinod Kumar, father of the petitioner. Finally, the said booth bearing No.210 was allotted to said Vinod Kumar vide allotment letter dated 28.09.2000 (Annexure P-5). The father of the petitioner remained in possession of the same till his death in 2006. The petitioner also used to work as a Typist alongwith his father in the said booth. After the death of Vinod Kumar, the aforesaid allotment was cancelled. The petitioner filed CWP No.4674 of 2012, which was disposed of with direction to the authorities to consider and decide his representation and till then status quo be maintained. Thereafter, representation of the petitioner was declined by the District Administration. On this, he filed CWP No.13041 of 2013, titled **“Sunil Gupta and another vs. State of Punjab and others”**, which was disposed of on 15.01.2015 (Annexure P-8).

3. Subsequently, Jalandhar Licence Association filed CWP No.9066 of 2015, which was disposed of vide judgment dated 18.11.2015 (Annexure P-2). In 2016, the petitioner being Punjabi Typist applied for allotment of booth No.210 vide Annexure P-11. However, without taking any decision on Annexure P-11, the said booth and other booths in District Complex, Jalandhar have been put to auction through impugned notice (Annexure P-1).

4. On notice of motion, short reply by way of affidavit of Deputy Commissioner, Jalandhar on behalf of all the three respondents was filed, contesting the claim of the petitioner.

5. We have heard the learned counsel for the parties.

6. Learned counsel for the petitioner while challenging the public auction notice (Annexure P-1), argued that the District Administration has put the cancelled booths on auction without considering the fact that the same is in violation to the judgment (Annexure P-2) rendered by the High Court. It is further contended that if the said auction is to be held, it would be totally against the mandate of the aforesaid judgment.

7. On the other hand, learned State counsel submitted that the notice (Annexure P-1) was issued with regard to auction of constructed booths and not with regard to open spaces and there is no violation of the order of the High Court, in any manner.

8. We have considered the submissions made by the learned counsel for the parties.

9. Previously, the petitioner and some other persons filed CWP Nos.13041 and 14699 of 2013 for allotment of booths in District Administrative Complex, Jalandhar, on compassionate grounds, being the legal heirs of licencees of booth Nos.188, 201 and 210. Both the said writ petitions were disposed of vide judgment dated 15.01.2015 (Annexure P-8) with the following observations:-

“ It appears that the State was remiss in auctioning the compound shops as required under 2003 Rules, as admittedly the allotment of shops in the compound were made more than a decade

earlier. Such shops were required to be auctioned after every two years. The period of licence could be extended only with the prior approval of the Financial Commissioner and that too for a period not exceeding one year. In view of the statutory rules framed, action of the respondents in not auctioning the compound shops is not justified nor the claim of the petitioners for allotment being the legal heirs of the deceased licensees as licence granted comes to an end with the death of the licensee.

In view of the above, the present writ petitions are disposed of with a direction to learned Deputy Commissioner to auction all shops in the Kutchery Compounds in the month of March, 2015 which have completed the extended period of licence of three years.

It shall be open to the petitioners to participate in the process of auction. The State Government shall ensure that the Rules are followed in letter and spirit in respect of all shops governed by the 2003 Rules.

In case any of the occupants fails to deliver possession on completion of the licence period, the Deputy Commissioner or such other Authority shall initiate proceedings under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 forthwith. Both the writ petitions are disposed of accordingly.”

10. Another writ petition having CWP No.9066 of 2015, titled **“Jalandhar Licence Association and others vs. State of Punjab and others”** was disposed of by the Coordinate Bench of this Court vide order dated 18.11.2015 (Annexure P-2) with the following observations:-

“ In Sunil Gupta's case (supra), the dispute was in respect of booths constructed by the State. Constructed Booths are to be auctioned in terms of Rule 4 of Rules. However, the petitioners claim to be in occupation of the open area for which fixed licence fee is contemplated.

A reading of Rule 3 of Rules shows that it deals with permission for use of conveniences i.e., permission to use open area in the complex as well as constructed shops. The Constructed shops have to be auctioned in terms of Rule 4 of Rules, whereas the open spaces are to be given on fixed licence fee. The first part of Rule 3 of Rules deals with income to be realized on account of conveniences provided by way of open spaces in the compound of District Courts and Tehsils to the petition writers, stamp vendors, typists, lawyers, printed form sellers, Photostat machine operators, juice bars, STD and PCO owners, whereas the second part of Rule 3 deals with leasing of confectioners shops, bicycle/scooter/motorcycle/ car stands and culturable area of the compound. The said area is to be auctioned. The convenience provided is, in fact, a licence granted to the

persons to carry out the specific works in the open spaces within the court complex on a fixed licence fee, whereas the second part deals with auction of the specific works.

In view thereof, the official respondents are directed to allot shops falling in second part of Rule 3 such as confectioners shops, bicycle/scooter/motorcycle/car stands and culturable area of the compound by way of an action in terms of Rule 4, whereas if the booths have been constructed for petition writers, stamp vendors, typists, lawyers, printed form sellers, Photostat machine operators etc. by the State, the same shall also be auctioned, but in case it was open space in respect of which licence was granted, the respondents shall allot such open places in terms of the schedule attached.

With the said direction and clarification, the present writ petition stands disposed of with a direction to the State Government and the Deputy Commissioners in the State of Punjab to follow the Rules, as interpreted above, in the right earnest and complete the process of auction and/or allotment expeditiously.”

11. In the aforesaid order (Annexure P-2), the Coordinate Bench of this Court has clarified that in CWP No.13041 of 2013, titled as **Sunil Gupta and another vs. State of Punjab and others**, which was decided on 15.01.2015, the dispute was in respect of booths constructed by the State and that constructed booths are to be

auctioned in terms of Rule 4 of Kutchery Compound Rules, 2003. Even from the perusal of Annexure P-11, it is evident that the petitioner Sunil Gupta had sought allotment of constructed booth No.210, which was lying vacant.

12. In the light of the above, it is clear that booth in question bearing No.210 is to be auctioned by the District Administration, it being a constructed booth. Therefore, there is no illegality in public auction notice (Annexure P-1) with regard to auction of built in booths of District Administrative Complex, Jalandhar.

13. The criteria for allotment of booths in District Administrative Complex has already been laid by the Coordinate Bench of this Court in **Jalandhar Licence Association's case** (supra).

14. Consequently, the instant writ petition is hereby dismissed, being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

07.12.2020

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No