

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

CWP-7924-2021.
Date of Decision:-31.08.2021.

Babban Zaidi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Sachin Luthra, Advocate for the petitioner.

Mr. Sandeep Moudgil, Advocate for respondent Nos.2 to 4.

TEJINDER SINGH DHINDSA, J. (Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic COVID-19 situation and as per instructions.

Instant writ petition has been filed raising a two-fold prayer:-

- (i)Petitioner seeks issuance of directions to the respondent-authorities to decide his representations dated 18.03.2019 (Annexure P-6) and 02.08.2019, 06.08.2019 and 26.08.2019 (Annexure P-7 colly).
- (ii)A *mandamus* is also sought directing the respondents to

allot in favour of the petitioner Booth No.93 in Sector-15, Panchkula, either at the prevailing collector rate or on fresh lease.

Brief facts as would emanate from the pleadings on record are that one Smt. Sheela Malhotra wife of Shri Madan Lal Malhotra, resident of House No.1151, Sector-15, Panchkula, was allotted Booth No.93 in Sector-15, Panchkula, in the year 1989-90. Such allotment was made pursuant to a policy decision having been taken by HUDA to allot/give on rent/lease the shops to such persons who were running their businesses from residential premises. It has further been averred that on 02.09.1992, afore-noticed Smt. Sheela Malhotra gave out on monthly rent/lease the allotted Booth bearing No.93, Sector-15, Panchkula to the petitioner. Apparently, notices were served upon the allottee to vacate the premises in the year 1999. It has further been averred that the allottee did not respond to the said notices and on 16.07.2001, the Booth in question was sealed by the officials of the HUDA Authorities. At that stage, petitioner filed **CWP-16151-2001** seeking issuance of directions for de-sealing the Booth and to permit the petitioner to run his business therefrom. Such writ petition was dismissed on 11.02.2015 with the observations that the petitioner can take resort to his remedy, as may be available under the HUDA Act, 1977. It is the pleaded case of the petitioner himself that an appeal having been preferred, the same was dismissed by the Administrator, HUDA on 07.06.2017 on the ground that the petitioner has no *locus standi* to prefer such an appeal.

The Booth in question had been sealed by the respondent-

authorities on 08.08.2018. Against such action also, petitioner had preferred CWP-18374-2017 and which was dismissed as withdrawn by this Court on 05.03.2019 in the following terms:-

**“CORAM: HON’BLE MR. JUSTICE MAHESH GROVER
HON’BLE MR. JUSTICE LALIT BATRA**

*Present:- Mr. S.R. Hooda, Advocate, for the petitioner.
Mr. Deepak Sabherwal, Advocate, for
respondent Nos. 2 to 4.*

MAHESH GROVER, J. (Oral)

....

*After arguing at length, when confronted with the
inconvenient situation and question, learned counsel for the
petitioner seeks permission to withdraw the present petition.*

Permitted to do so.

*Accordingly, the petition is dismissed as
withdrawn.*

**(MAHESH GROVER)
JUDGE**

March 05, 2019

**(LALIT BATRA)
JUDGE”**

We have heard learned counsel for the petitioner at length.

It has been contended that the petitioner has been discriminated against. Counsel cites the instance of SCF No.2, Sector-15 Market, Panchkula, wherein also a commercial premise had been allotted without

following any due procedure. It is the contention that in case of the petitioner also, since he has been occupying the Booth in question over a considerable length of time and has paid the lease money/rent to the original allottee, petitioner would be vested with the right for allotment of the same. Further urged that the petitioner has been paying property tax with the Municipal Authorities and even otherwise, over the period of time, had invested a lot of money in running his business in the premises in question and as such, in equity also he has a right to be considered to be allotted the Booth in question.

In our considered view, the submission advanced by counsel for the petitioner is not well-founded. The allotment letter in favour of the original allottee, Smt. Sheela Malhotra, has not been placed on record. Counsel has been evasive in responding to the query as to whether the original allottee had any authority to lease out/rent out the commercial premises in favour of the petitioner. Since the allotment in favour of the allottee was in lieu of the business that was being run from residential premises, it is obvious that no such right came to vest with the allottee to lease out the premises.

It would be apposite to take notice at this stage that even the statutory appeal that had been preferred by the petitioner, had been dismissed by the Administrator, HUDA on 07.06.2017 on the ground that petitioner had no *locus standi* to file such an appeal. Said order has since attained finality.

Since an advance copy of the petition had already been served

upon the respondents, Mr. Sandeep Moudgil, Advocate, appearing on behalf of respondent Nos.2 to 4, informs the Court that he has instructions from the Estate Officer, Head Office, Panchkula, that SCF No.2, Sector-15 Market, Panchkula, had been allotted by following due procedure and by way of auction proceedings. In the light of such information furnished by the counsel representing the Haryana Shehri Vikas Pradhikaran (HSVP), the plea of discrimination sought to be advanced does not survive.

Insofar as the prayer for deciding the representations made by the petitioner are concerned, at face value such prayer may appear rather innocuous but we need to notice that previous petition filed by the petitioner against the sealing of the Booth in question did not find favour and, rather, was dismissed as withdrawn without liberty to file a petition afresh. Petitioner, as such, cannot be permitted to rake up the same very issue time and again.

As regards the allotment of the Booth in question in favour of the petitioner, there is no vested right with the petitioner. No provision has been brought to our notice on the strength of which such a prayer has been raised.

Needless to observe that as and when the respondent-authorities choose to allot the Booth in question and as per prevailing policy, it would always be open for the petitioner to participate in such process, if he otherwise fulfills the eligibility conditions prescribed by the HSVP.

In view of the above, we find the writ petition to be wholly

misconceived.

Dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

(VIKAS BAHL)
JUDGE

August 31, 2021.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.