

203.

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

CWP-4376-2016

Date of Decision: 20.04.2022

LAKSHAMI RANA

.... Petitioner

Versus

UT OF CHANDIGARH AND ANR.

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- None for the petitioner.

None for respondent No.1.

Mr. Kuldeep Tiwari, Advocate,
for respondents No.2 to 4.

JAISHREE THAKUR.J (Oral)

The instant writ petition has been filed seeking writ in the nature of certiorari for setting aside the order dated 21.10.2015 as passed by respondent No.3 declining to transfer the licence held in the name of M/s Surinder Kumar Piyush Rana, in favour of the petitioner.

In brief, the facts are that Surinder Kumar was issued a licence for Commission Agency in Grain Market, Sector 26, Chandigarh under the name and style of M/s Surinder Kumar Piyush Rana, bearing licence No.455, dated 13.09.2002 which was being renewed from time to time. On the death of said Surinder Kumar, his widow Lakshami Rana, the present petitioner, made a request that the licence issued in the name of the firm be transferred in her name. She also submitted that the other legal heirs do not have any objection to the transfer of the proprietorship in her name. The said request

was declined by an order (Annexure P-4) and the petitioner was asked to apply afresh. The petitioner has pleaded that under similar circumstances, licence has been transferred to the immediate legal heirs after the death of the sole proprietor. Aggrieved against the said order declining to transfer the licence, the instant writ petition has been filed.

Notice of motion had been issued and the reply filed.

None has appeared on behalf of the petitioner today.

Learned counsel appearing on behalf of the respondents No.2 to 4 would contend that Rule 20 pertains to change in style and membership of a firm and Rule 20 (1)(a) stipulates that where the licensee, holding a license under Section 10 is a firm, any change occurring in the membership of such firm, otherwise than through inheritance, shall mean the constitution of new firm and shall necessitate a fresh licence, and therefore, on the death of Surinder Kumar, a fresh firm came to be constituted and, therefore, the orders were rightly passed.

I have perused the pleadings of the case and find that the impugned order is not sustainable. Rule 20 itself stipulates that where a licensee holding a license under Section 10 is a firm, as in the instant case, any change in the membership of the firm shall mean constitution of a new firm. However, this Rule itself has a stipulation that it would not be applicable in the case of an inheritance. Applying the Rule itself, the petitioner herein, who is widow of the sole proprietor, has stated that the other legal heirs have no objection to the transfer of the licence in her name, the request could not have been rejected.

Mr. Kuldeep Tewari, counsel for the respondents No.2 to 4 would also argue that there is a change in address of the firm and on that account too, the transfer of the licence was rejected. This argument too would not be sustainable in view of the fact that there is communication available from the Secretary, State Agriculture Marketing Board, U.T., Chandigarh to the Administrator, Market Committee, Chandigarh pertaining to the change in place of business premises by existing licensee under Section 10 of the Punjab Agricultural Produce Market Act, 1961. As per the communication, it has been ordered that *“if any licensee under Section 10 of the Punjab Agricultural Produce Market Committee Act, 1961 changes his business premises within the Principal Market Yard, there is no need for fresh license”* (an extract from memo dated 04.02.2020). It is also noted that transfer of licence has been allowed in other cases on the basis of inheritance under Rule 20 of the *Punjab Agricultural Produce Market Committee Rules 1962*. In the opinion of the Court, the petitioner cannot be discriminated against.

Therefore, the impugned order is hereby set aside and in case the petitioner applies afresh, the licence be transferred to her expeditiously, preferably with a period of two months thereafter.

The writ petition is disposed of accordingly.

20.04.2022

sanjeev

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No