

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

(111)

CWP-17712-2023 (O&M)

Decided on : 24.08.2023

Mahender Saini and others

.....Petitioner(s)

Versus

Market Committee, Faridabad and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Gurinder Pal Singh, Advocate for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

CM-13919-CWP-2023

Application to place on record order dated 14.02.2023 passed in CWP-25205 & 30555 of 2019 alongwith the memo of parties as Annexures P-14 and P-15, is allowed, subject to just exceptions. Said annexures are taken on record. Office to append the same at the relevant place.

CM stands disposed of.

CWP-17712-2023

Challenge in the present writ petition filed under Article 226 of the Constitution of India is to the order dated 20.07.2023 (Annexure P-11) passed by the Chief Administrator of the Haryana State Agricultural Marketing Board whereby the allotment of the “Fads” made by the Secretary, Market Committee Faridabad were ordered to be cancelled with immediate effect. Further directions were issued to initiate the process of allotment as per the instructions of 2018 and the Secretary of the Haryana State Agricultural Marketing Board was directed to expedite the departmental proceedings initiated against the defaulting officers/officials.

2. Mr. Gurinder Pal Singh submits that the order was passed regarding the writ petitioners in **CWP-25205-2019 ‘Sanjay Arora and others Vs. Market Committee, Faridabad & others’** and **CWP-30555-2019 ‘Bheem Singh & others Vs. Market Committee, Faridabad & others’**. The petitioners were not party in the said litigation, but in spite of that the order has been passed for cancelling their allotment. It is submitted that principles of natural justice have been violated as no show cause notice was issued to the petitioners who had never approached this Court and show cause notice had only been issued to the petitioners of the above said litigation while referring to show cause notice dated 16.05.2023 (Annexure P-9) and the reply (Annexure P-10) filed by the said writ petitioners, which fact had been highlighted by those set of persons.

3. During the course of arguments Mr. Deepak Balyan, Advocate has put in appearance on behalf of the respondents having advance copy and it has been brought to our notice that the other set of persons had availed the remedy of revision under Section 40 (3) of the Haryana Agricultural Produce Markets Act, 1961 and orders have already been reserved in the said case. Thus, an alternative and efficacious remedy being available the objection has been taken regarding the maintainability of the present writ petition.

4. Mr. Gurinder Pal Singh on the other hand submits that a communication dated 21.08.2023 has also been issued by the Market Committee that premises have to be vacated forthwith and has thus submitted that the order passed by the revisional authority is not readily available. Photocopy of said communication has been placed on record. It is, accordingly, submitted that if the petitioners are to be relegated to their

alternate remedy, they be protected during the pendency of the revision petition.

5. Keeping in view the above, we are of the considered opinion that since there is a statutory remedy of revision available, it is open to the petitioners to avail the same within a period of one week from today. In case, the petitioners file the said revision within the abovesaid period, the authority concerned shall not take any coercive method to vacate the premises, till appropriate decision is taken by the concerned authority on the stay application or in the revision petition, since it is their case that they have never been served any show cause notice and never given any opportunity of hearing and the Chief Administrator was dealing only with the cases of earlier writ petitioners who had been issued show cause notices.

6. The writ petition is, accordingly, disposed of with the aforesaid directions and liberty as granted above.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

24.08.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No