

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

**CWP-19800-2023 (O&M)
Date of Decision: 06.09.2023**

M/s New Honey Fruit Company

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Sunil Kumar Nehra (Sirsa), Advocate,
for the petitioner.

Mr. Aman Bahri, Addl. A.G., Haryana.

HARPREET KAUR JEEWAN, J.

1. The present Civil Writ Petition has been filed for quashing the order dated 14.06.2023 (Annexure P-12), whereby the representation of the petitioner for allotment of a shop/plot on a reserve price being similarly situated as of “Category-II Licensee of De-notified Sub Market Yard”, was dismissed by the Chief Administrator, the Haryana State Agricultural Marketing Board, Panchkula, (respondent No. 2).

2. It is the case of the petitioner that he is working as fruit and commission agent in Fruit and Vegetable Market, Dabwali in Shop No. 22 in Guru Nanak Block, Subzi Mandi, Dabwali and license No. 2202/DAB/Board has been issued to him on 16.08.2013 to work as commission agent which is renewed upto 31.03.2023.

2.1 The State of Haryana-respondent No. 1 while exercising its power under Section 7 of the Haryana Agricultural Produces Market Act, 1961 (for short ‘the Haryana Act of 1961’) vide notification dated 04.02.2019 (Annexure P-2) de-notified Shop Nos. 1 to 20 of “Shant Block”

as Sub Market Yard, by amending the Schedule given in the notification dated 18.03.1993 (Annexure P-1). However, licenses have been issued by the competent authority for operating from three blocks, i.e. “Shant Block”, “Guru Nanak Block” and “Lajpat Block.” Even the trading platform of the Sub Market Yard is surrounded by all the said three blocks from three sides and the fourth side of the trading block is surrounded by a park. It was submitted that Category-II Licensees operating from Shant Block and Lajpat Block have been considered eligible for allotment of shop/plot on reserve price, on account of de-notification of the old vegetable market, whereas the petitioner who is working from the Guru Nanak Block has not been considered for allotment of such a shop/plot on reserve price in terms of Rule 3 (1) of the Haryana State Agricultural Marketing Board (Sale of Immovable Property), Rules, 2000 as well as 2021 (hereinafter referred to as ‘the Rules’) The petitioner is working as a Category-II Licensee, i.e. ‘*Kachacha Arthia*’ and is also eligible for allotment of a shop/plot on reserve price, on account of the de-notification of the old vegetable market at Dabwali being at par with Category-II, licensee who are operating from Shant Block and Lajpat Block. However, a limited e-auction was held on 17.03.2023 for allotment of the plot to Category-II Licensee whereby 4 licensees from Shant Block and 8 licensees from Lajpat Block were allowed to participate in the e-auction.

2.2 Similarly, situated persons who had approached this Court by way of filing a Civil Writ Petition No. 7388 of 2022 were considered eligible for allotment of the plots during the pendency of the writ petition, as per the order dated 13.03.2023 (Annexure P-4).

2.3 The petitioner and another firm gave a representation dated

28.03.2023 (Annexure P-10) to the respondent-Chief Administrator, but no action was taken on the said representation. As such, they filed a Civil Writ Petition No. 8342-2023, whereby a direction was issued, vide order dated 21.04.2023 (Annexure P-11), to the Chief Administrator-respondent No. 2 to take a decision on the aforesaid representation, within a period of six weeks. In pursuance to the said decision, the Chief Administrator passed the impugned order dated 14.06.2023 (Annexure P-12) rejecting the claim of the petitioner.

3. The Chief Administrator declined the representation of the petitioner, on the ground that the premises on which the petitioner was working as Category-II licensee was not in the notified area of the old area and therefore, there is no question arises for de-notifying the same.

4. Learned counsel for the petitioner submitted that the action on the part of the Chief Administrator-respondent No. 2 while dismissing the claim of the petitioner by the impugned order dated 14.06.2023 (Annexure P-12) is illegal, arbitrary and discriminatory as similarly situated persons who were working in the Shant Block and Lajpat Block have been considered eligible. It is further submitted that even those persons who approached this Court by way of filing a Civil Writ Petition No. 7338-2022, which was disposed of vide order dated 13.03.2023 (Annexure P-4), were considered eligible for allotment of the shop/plot on reserve price.

5. On the other hand, learned counsel appearing for the respondents-State has submitted that initially a notification dated 18.03.1993 (Annexure P-1) was issued declaring some localities mentioned therein as “Sub Market Yard” under sub-section (2) of Section 7 of the Punjab Agricultural Produce Markets, Act, 1961 (for short ‘the Punjab Act

of 1961). The said Act is admittedly renamed as the Haryana Agricultural Produces Market Act, 1961. However, there was some ambiguity in the area which was declared as a “Sub Market Yard” in the said notification. As such the amendment was made in the said notification dated 18.03.1993 (Annexure P-1) by way of issuance of notification No. 148-Agri- Sec (1)-2019/1773 on 04.02.2019 (Annexure P-2), whereby the locality of “Sub Market Yard”, was clarified in the notified market area of the Market Committee, Dabwali. The Category-II licenses who were operating from the notified “Sub-Market Yard” were held eligible for allotment of the shops/plots on reserve price which were de-notified. The premises from where the petitioner was operating was not within notified “Sub-Market Yard” as such, he was not considered eligible for allotment on reserve price.

6. Keeping in view the nature of the order by which we are going to dispose of the present writ petition, we do not find it necessary to adjourn the matter for filing the reply by the respondents.

7. We have considered the aforesaid submissions.

8. As per Section 7 of the Haryana Act of 1961, one principal market yard, and one or more “sub-market yards”, can be notified by the State Government for each notified market area. The said Section reads as under:-

“[7. Declaration of market yards. -

(1) For each notified market area, there shall be one principal market yard, one or more sub-market yards, one or more consumers’ market, one or more special commodities market, one or more e-trading platform, one or more terminal market, one or more seasonal

market yards, one or more special market yards, one or more producer and consumer market yards, one or more producer market yards and one or more private market yards, as may be necessary.

(2) The State Government may, by notification, declare any enclosure, building or locality in any notified market area to be principal market yard for the area and other enclosures, buildings or localities to be one or more sub-market yards, one or more consumers' market, one or more special commodity market, one or more e-trading platform, one or more terminal market, one or more seasonal market yards, one or more special market yards, one or more producer and consumer market yards, one or more producer market yards and one or more private market yards for the area.

(3) The State Government may declare any market established under sub-section (2) as market of national or international importance after considering such factors, as may be prescribed."

9. It is the case of the petitioner that he is not being considered for allotment of the shop on reserve price, on account of de-notification of the old Vegetable Market. The petitioner is required to establish that the place where he was working was a notified vegetable market, which was de-notified, as such he has the entitlement for allotment of a shop on reserve price. The petitioner has placed reliance upon the previous notification dated 18.03.1993 (Annexure P-1), as per which the locality of "Sub-Market Yard" in the Dabwali Market Area. The relevant portion of

the same reads as under:-

Nature of the sub market yard	Locality of the sub-market yard	Notified market yard
1	2	3
xxxx	Vegetable Mandi at Dabwali with boundaries as under:- North:- Shop No. 1 of Shant Block constructed by Improvement Trust South:- Upto Shop No. 20 of Shanti Block constructed by Improvement Trust East:- Common Platform of both sides West:- Road of Municipal Committee	xxxx

10. The “Sub-Market Yard” was clarified/amended, vide subsequent notification dated 04.02.2019 (Annexure P-2) and the locality of the “Sub-Market Yard” was described with boundaries. The relevant portion of the the same reads as under:-

Name of Sub-Market Yard	Locality of Sub Market Yard	Notified Market Area
1	2	3
xxxx	Vegetable Mandi at Dabwali with boundaries as under:- North:- Industrial area plots South:- Road of Shehri Vikas Pardhikaran East:- Boundary wall of SDM office West:- Road of Shehri Vikas Pardhikaran	xxxx

11. The petitioner has failed to show that the shop where he is working is within the locality of notified “Sub-market yard” either as per the previous notification dated 18.03.1993 (Annexure P-1) or as per the amended notification dated 04.02.2019 (Annexure P-2).

12. The Haryana State Agricultural Marketing Board (Sale of Immovable Property), Rules, 2000 were framed in exercise of the powers conferred under Section 43 read with Section 18 of the Punjab Act, 1961 for regulating the sale and transfer of immovable property of the Haryana State Agricultural Marketing Board and Market Committee. As per Rule 3, the immovable properties in the market developed by the Board or Market Committee shall be disposed of by way of allotment/transfer/open auction in accordance with the provisions of the said Rules. Sub-Rule (3) of Rule 3 further provides the requirement of a period for holding a valid license as an eligibility criteria for allotment of the plots in the case of ‘*Mandi*’ where some auctions have already been held and as well as in the case of ‘*Mandies*’ to be developed in future. Sub-Rule (3) also provides ineligibility criteria of the license holder for allotment of plot on preferential basis. The said Rule reads as under:-

“3. Disposal of immovable property. (1) All immovable properties in the markets developed by the Board or Market Committees shall be disposed of by way of allotment/transfer/open auction in accordance with the provisions of these rules. The shop plots will be allotted to the old licensees of category (ii) of old market which is to be denotified, resulting in displacement of such licensed dealers of category (ii), on free hold basis, for conducting the business of sale and purchase of agricultural produce in the new markets, on the following terms and conditions, namely,

- (i) in the markets where some auctions have already been held, the allotment shall be made on the basis of the average price of the last auction;
- (ii) in the markets where no auction has so far been held or where the last auction was conducted five years prior to the date of present allotment/transfer/auction, the price of the plot shall be fixed at thirty five per cent above the reserve price. The reserve price shall be worked out as per formula approved by the

Board *vide* its resolution dated the 1st June, 1987 or any other formula to be approved by the Board from time to time;

- (iii) only those category (ii) Licensees shall be eligible for allotment of plots who had valid licence of four years on the date fixed for inviting applications for draw of lots];
- (iv) Such licensees must have paid market fee of at least Rs. 5,000/- annually for the last two years :
- (v) the licence of such category (ii) licensee should not have been revoked for a period of two months at a time for violation of any of the provisions of the Act or any rules made thereunder, or non-payment of market fee etc.;
- (vi) the category (ii) licensee must have an independent premises, either own or rented, in the old mandi to be denotified. In case there are more than one licensee in the same premises, the oldest firm or the one which is agreed upon in writing by all the firms occupying the same premises, shall be eligible;
- (vii) if the eligible licensee of category (ii) had already purchased a plot in open auction, either in his own name or in the name of the licensee firm, he shall not be allotted a plot on preferential basis as above;
- (viii) an allottee of a shop plot under these rules shall not be permitted to use the premises for any purpose other than the marketing of notified agricultural produce. In case of misuse of his premises, the allotment shall be cancelled and 10% of the value of the plot, interest and other dues payable, shall be forfeited and such an allottee shall be debarred from allotment of any other site under these rules;
- (ix) transfer of title of shop plot, so allotted, shall not be permitted before a period of five years from the date of allotment of such plot except under special circumstances and with the prior approval of the Chief Administrator of the Board and on payment of such fee as may be prescribed by the Board from time to time;
- (x) the allottee shall construct the building as per the approved design within a period of two years from the date of offer of possession of the plot, which may be extended further by the con-

cerned Market Committee upto a maximum period of three years on payment of extension fee @ Rs. 10,000/-, Rs. 15,000/- and 20,000/- for the first, second and third year of extension, respectively. In the event of failure to do so, the plot shall be resumed by the Market Committee. In the event of such resumption, the Market Committee shall deduct 10% of the price of the plot and 15% interest on balance overdue instalments and interest;

(xi) the allottee of shop/booth plots, whether by preferential allotment or through open auction, shall also pay the additional expenses such as enhanced land compensation with sixty days from the date of such demand by the Market Committee. In case of default, penal interest @ twenty-one percent per annum will be charged. The recovery of enhanced compensation shall be as per the formula approved by the Board;

(xii) In case the number of available shop plots is less than the number of eligible applicants, the allotment shall be made to the eligible licensees in their order of seniority, which shall be determined on the basis of their period of licence of category (ii). The allotment of serial number of plots will be decided through draw of lots amongst the eligible allottees;

(2) All booth plots, the balance shop plots and any other commercial site shall be disposed of through open auction. However, a site (including shop plot, booth plot or any other plot), subject to availability, may be allotted at thirty-five per cent above the reserve price to the following :-

- (i) post office, telephone exchange, water works;
- (ii) public sector undertakings, government agencies and cooperative marketing societies of Haryana State Cooperative Supply and Marketing Federation Limited, dealing in agricultural produce or inputs;
- (iii) nationalized/cooperative banks; and
- (iv) dharamshala/community centre in an area upto one thousand square meters to be set up by the registered association of the traders residing in the mandi and

(v) to any Government Department for any public utility services with the approval of the Government.

(3) Where no denotification of the old mandi is involved, all the shops plots shall be sold through open auction, except allotment to identified public utilities as per sub-rule (2) of this rule.”

(Emphasis supplied)

13. In the absence of this fact that the shop where the petitioner was operating is within the locality of a notified “Sub-market yard”, the petitioner would not be entitled to the benefit of Category-II licensee in terms of Rule 3(1) of the Rules.

14. In such circumstances, even if the old Fruit and Vegetable Market is going to be de-notified, the petitioner would not be entitled to any benefit for allotment of a shop on reserve price as the shop where he was working was not within the area which was going to be de-notified.

15. Keeping in view the aforesaid circumstances, the reasons recorded by the Chief Administrator (respondent No. 2) in the impugned order dated 14.06.2023 (Annexure P-12) while dismissing the representation of the petitioner does not suffer from any error or illegality.

16. We have also gone through the various orders placed on record by the petitioner whereby the owners of the shops were held eligible for allotment on reserve price in the New Market and in no such cases any shop situated in the Guru Nanak Block has been given such a benefit. As such, the petitioner had even failed to show that he is entitled for the relief even on the ground of discrimination.

17. Consequent to the above discussion, we find no merit in the present petition and the same is accordingly, dismissed.

Pending miscellaneous applications, if any, also stand disposed

of.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

September 06, 2023
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Whether Speaking	Yes/No
Whether Reportable	Yes/No