

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.20550 of 2017
Reserved on :21.11.2023
Pronounced on:26.02.2024

Rani @ Jasbir Kaur

....Petitioner

V/s

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Vivek Salathia, Advocate and
Mr. Deepanshu Sodhi, Advocate, for the petitioner.

Mr. Navdeep Chhabra, Sr. DAG, Punjab
for respondent No.1.

Mr. Abhishek Arora, Advocate, for
Mr. Sunil Jain, Advocate, for respondent No.2.

Ms. Ekta Thakur, Advocate, for respondent No.3.

VIKRAM AGGARWAL, J.

1. The petitioner Rani @ Jasbir Kaur prays for the issuance of a writ in the nature of certiorari, quashing the order dated 21.07.2017 (Annexure P-1) passed by respondent No.2, vide which her claim for allotment of shops/booths at Nehru Shopping Complex, Lawrence Road, Amritsar was rejected. She also prays for the issuance of a writ of mandamus, commanding respondent No.2 to allot built up shops/booths to the petitioner at Nehru Shopping Complex, the case of the petitioner being similar to other persons who had been allotted shop(s)/booth(s) by respondent No.2.

2. The petitioner claims to be the daughter of one Kulwinder Singh, who was the son of one Thakur Singh Pithi Wala. Thakur Singh Pithi Wala, being the proprietor of M/s Thakur Singh Pithi Wala, had two kiosks

at Lawrence Road, Amritsar as 30 kiosks had been given on rent by respondent No.3 to various persons in 1975. Kulwinder Singh who was the father of the present petitioner is stated to have been assisting his father Thakur Singh in his business. Thakur Singh unfortunately expired on 10.05.1988, after which Kulwinder Singh started running the business and managing the affairs of M/s Thakur Singh Pithi Wala. *Teh bazari* receipts have been annexed as Annexure P-5 (collectively).

3. It is the case of the petitioner that Kulwinder Singh had started running the business of M/s Thakur Singh Pithi Wala on the basis of a written agreement which took place between Kulwinder Singh and his brothers on 04.12.1990 (Annexure P-7).

4. In the year 1992, respondent No.3 directed the persons who were running their business from the kiosks to remove the same. Upon representations of the said persons, a resolution No.540, dated 22.06.1992 was passed by respondent No.3 that similar booth(s) be allotted to the kiosk-holders before implementing any other Scheme (Annexure P-8). The said resolution is stated to have been approved by the then Finance Minister, Punjab on 19.10.1992 (Annexure P-9).

Kulwinder Singh, the father of the petitioner expired on 03.04.1993 and was survived by his wife Surinder Kaur, the present petitioner and her sister Ritu @ Randeep Kaur.

5. On 19.02.1998, an order had been passed with regard to allotment of booths/shops to the kiosk-holders by way of restricted auction (Annexure P-10). The price was fixed at Rs.1,08,300/- and reserve price was fixed at Rs.10830/- (Annexure P-11). The reserve price was increased to Rs.24800/- vide notices dated 18.03.1998 and 24.04.1998 (Annexures P-12 and P-13).

Objections were filed to the aforesaid action of enhancing the earnest money. However, the kiosk-holders deposited Rs.25,000/- each. The petitioner also deposited Rs.25,000/- each in respect of two kiosks. Copies of receipts dated 26.06.1998 and 01.07.1998 are on record as Annexure P-14 (colly).

6. The petitioner received a notice to participate in the auction which was to be held on 18.03.1998. The auction, however, failed and no allotments were made. The petitioner, in the meanwhile, had been contacting the Lawrence Market Welfare Association who assured the petitioner that her case was being taken care of. The mother of the petitioner also expired on 07.01.2001. Whereafter, the petitioner and her sister became the sole surviving claimants of M/s Thakur Singh Pithi Wala.

The petitioner took up the matter with the respondent-authorities and received a communication dated 30.07.2015 from respondent No.2 that the restricted auction had not taken place and no date has been fixed. It was stated that as and when the date for the auction would be fixed, the petitioner would be intimated (Annexure P-16). The petitioner, however, came to know that without issuing any notice to the petitioner, shops had been allotted to the other claimants. Accordingly, a written representation dated 03.10.2016 was submitted by the petitioner (Annexure P-17).

7. Since no decision was being taken on the said representation, CWP-25942-2016 was filed. The writ petition was disposed of by a coordinate Bench of this Court on 15.12.2016, vide which directions were issued to respondent No.2 to decide the claim of the petitioner by way of a speaking order (Annexure P-18). Accordingly, the impugned order dated

8. It has been averred in the writ petition that CWP-13152-2013 titled as *Lawrence Market Welfare Association Vs. State of Punjab and others* had been decided on 09.12.2014 and a direction had been issued to respondent No.2 to offer booth sites at Nehru Shopping Complex to the eligible kiosk-holders (Annexure P-2). Though the same were allotted to other similarly situated persons, no allotment was made to the petitioner.

9. The writ petition has been opposed by the respondents.

10. The contesting respondent, i.e. Amritsar Improvement Trust (respondent No.2) has filed its written statement. Certain preliminary objections with regard to maintainability, the petitioner not having approached this Court with clean hands etc. have been raised.

It has been averred that the petitioner has failed to establish her relation with deceased Thakur Singh and has concealed the names of other sons and daughter of Thakur Singh. It has been averred that one Thakur Singh was in possession of two sites on *teh bazari* but he did not have any perpetual rights. Even the *teh bazari* receipts had been issued after the death of Thakur Singh and as such they have no legal value.

It has further been averred that auction proceedings were initially conducted on 03.07.2006 and all the kiosk-holders were issued individual letters calling upon them to participate in the auction. Due intimation was also sent to Thakur Singh. However, neither Thakur Singh Pithi Wala, nor his LRs participated in the auction.

The said auction was however not finalized and a fresh auction was conducted on 13.11.2015 and 23 booths/shops were allotted. At that time also, no legal representatives of Thakur Singh participated in the auction and, therefore, now the petitioner has no right.

It has been averred that even otherwise the petitioner would not

be eligible for allotment of a booth/site.

On merits, a similar stand has been taken.

Respondent Nos.1 and 3 have filed their formal replies since no relief has been claimed against them.

11. In the replication, averments made in the written statement were denied and those made in the writ petition were reiterated.

12. We have heard learned counsel for the parties.

13. Learned counsel for the petitioner strenuously urged that the action of the respondents in not allotting shops/booths to the petitioner is totally illegal. Reference was made to the judgment dated 09.12.2014 passed by a coordinate Bench of this Court in CWP-13152-2013 (supra) (Annexure P-2), *teh bazari* receipts [Annexures P-3(colly) and P-5 (colly)], copy of telephone bill (Annexure P-6), copy of agreement dated 04.12.1990 (Annexure P-7) and other documents.

14. On the other hand, learned counsel for respondent No.2 submits that the petitioner would not have any right for allotment of booth/plot as she had failed to establish her relationship with Thakur Singh Pithiwala.

Learned counsel also submitted that neither Thakur Singh, nor his legal representatives had participated in the auction held in the year 2006 and thereafter in the year 2015 despite notices having been issued to them and, therefore, now they would not have any right for allotment of any kiosk/booth/shop.

15. We have given our thoughtful consideration to the issue in hand.

It is the admitted case of the parties that Thakur Singh Pithi Wala was running two kiosks at Lawrence Road, Amritsar. He is stated to

was then taken over by Kulwinder Singh son of Thakur Singh and father of the present petitioner. Telephone bill (Annexure P-6) and agreement dated 04.12.1990 (Annexure P-7) entered into between Kulwinder Singh, Jaswant Singh and Balbir Singh prove the said fact. Kulwinder Singh is also stated to have unfortunately expired on 03.04.1993. Thereafter, there is no proof that the petitioner along with her mother Surinder Kaur and sister Ritu @ Randeep Kaur continued the business of M/s Thakur Singh Pithi Wala. The receipts dated 26.06.1998 and 01.07.1998 are in the name of Thakur Singh Pithi Wala and there is no mention of the name of the present petitioner or her mother and sister.

In any case, the first auction is stated to have taken place on 03.07.2006. It is the specific case of respondent No.2 that all kiosk-holders, including Thakur Singh were issued individual notices but neither Thakur Singh Pithi Wala nor his legal representatives participated in the said auction.

Since the previous auction could not be finalized, a fresh auction took place on 13.11.2015. It is the specific stand of respondent No.2 that even in that auction, no legal representatives of Thakur Singh participated. It is the stand of respondent No.2 that this auction was also held after wide publicity in two newspapers, i.e. Jagbani and Punjab Kesari, in which information was duly published on 29.10.2015 with regard to the said auction. 23 booths/shops were allotted.

Apart from the above, as has been observed previously, the petitioner has not clarified about all descendants of Thakur Singh and their status. She has also not been able to even *prima facie* prove that she along with her mother Surinder Kaur and her sister Ritu @ Randeep Kaur at any

has to be borne in mind that the purpose of allotment of shops/booths was to rehabilitate the kiosk-holders and the legal representatives of such kiosk-holders would not have an absolute right of consideration even if they were not continuing with the business. Still further, as has rightly been held in the impugned order, the process of allotment was not to continue forever.

16. We, therefore, do not find any illegality in the impugned order dated 21.07.2017 (Annexure P-1), which was passed by respondent No.2 in pursuance of directions issued by a coordinate Bench in CWP-25942-2016 titled as *Rani @ Jasbir Kaur vs. State of Punjab and others*, on 15.12.2016.

17. In view of the above, we do not find any merit in the writ petition and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

26.02.2024
vcgarg

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No