

2024:PHHC:147088-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105)

LPA-1564-2023 (O&M)

Decided on : 12.11.2024

Malkit Singh

.....Appellant(s)

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.V.K.Jindal, Advocate for the appellant.

Ms.Arundhati Kulshrestha, AAG, Punjab.

G.S. Sandhawal, J.(Oral)

1. Consideration in the present appeal is to the judgment dated 31.08.2023 passed by the Learned Single Judge in CWP-19161-2023 wherein the Learned Single Judge dismissed the writ petition by coming to the conclusion that the request for transfer of the fair price shop licence issued to appellant's grandfather had rightly been declined vide order dated 17.05.2023 (Annexure P-10) which was subject matter of challenge in the writ petition.

2. It was noticed by the Learned Single Judge that the deceased depot holder had never appointed the appellant as his successor and he was having land in his name and his financial condition was good and that he was not dependent upon anyone. He was also more than the age limit prescribed in the policy and therefore, the authority had found that he would not be eligible for allotment of the depot on compassionate ground and neither his case was recommended and therefore, the request was rejected.

3. The Learned Single Judge, while noticing Clause 9(10), came to the conclusion that transfer of the licence has to be made to any eligible person from the family in case of demise of the licensee or in case of 100% disability of the licensee. The definition of 'family' was kept in mind as also the dependency aspect of the depot holder to come to the conclusion that there was no indefeasible right and keeping in view the fact that the petitioner was having land in his name and his financial condition was good, it was rightly held that it was not a case of hardship.

4. The additional affidavit filed by the appellant dated 04.03.2024 (Annexure P-14) projected that there is financial exigency in the family which is in contrast to the affidavit dated 14.05.2024 filed by the Deputy Commissioner, Moga. Accordingly, the appellant was directed to file a better affidavit vide order dated 06.08.2024. The same reads as under:

“Affidavit of Deputy Commissioner, Moga has been filed, which is taken on record. A perusal of the said affidavit goes on to show that one of the sons of the appellant is residing abroad, whereas in the additional affidavit filed by the appellant, it has been deposed that his one son is school going and the other son is in search of employment.

Let, a better affidavit be filed, giving details regarding the son who is residing abroad and qua the status of his citizenship and employment and about his financial contribution to his father.

Adjourned to 12.11.2024.”

5. Today, neither the better affidavit has been filed regarding the son who is residing abroad and qua the status of his citizenship and employment and about his financial contribution to his father. It is, thus, apparent that what was being held out in the affidavit filed by the authority has not been controverted by the appellant. Once the appellant’s son is abroad and appellant had been concealing this fact that one son is searching for employment, we are of the considered view that the Learned Single Judge was well justified in dismissing the writ petition. It is settled principle that a person not coming to the Court with clean hands is not entitled for the discretionary relief under Article 226 of the Constitution of India.

6. Accordingly, in view of the above discussion, we do not find any infirmity or illegality in the judgment passed by the Learned Single Judge. Consequently, the present appeal is hereby dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)

JUDGE

12.11.2024

Sailesh

(MEENAKSHI I. MEHTA)

JUDGE

Whether speaking/reasoned :

Whether Reportable :

Yes

No