

SUPREME COURT OF INDIA

Nanha Ram

Vs.

Chandigarh Administration

S.L.P.(C) Nos. 16915-16919 of 2002

(S. R. Babu and G. P. Mathur JJ.)

08.04.2004

ORDER

1. These petitions by special leave have been preferred against the judgment and order dated 22.4.2002 of a Division Bench of the High Court of Punjab and Haryana.

2. The petitioners are carrying on business of selling fruits and vegetables on their 'rehries' (hand carts) in the grain market in Sector 26 in the city of Chandigarh. It appears that steps were taken to remove them from the grain market. At that stage they filed the writ petitions praying that a writ of mandamus be issued restraining the respondents from removing them from grain market in Sector 26 without allotting them alternative sites. A further prayer was made that the respondents be directed to allot the petitioners alternative sites from where they may carry on their business. Initially, an interim order was passed by a learned Single Judge in favour of the petitioners, but ultimately the writ petitions were dismissed by a Division Bench relying upon two earlier decisions rendered in similar writ petitions.

3. In exercise of powers conferred by Sections 188 and 199 of *Punjab Municipal Act, 1911*, the Chandigarh Administration has framed Bye-laws known as Chandigarh Hand Cart (Control & Regulation) Bye-laws, 1976. Bye-law No. 8 provides that no person shall use a handcart contrary to the Bye-laws. It is an admitted position that the petitioners have not been granted any licence and, therefore, they do not have any legal right to carry on business in the grain market in Sector 26. Having regard to the aforesaid legal position and the decisions rendered in the earlier writ petitions, the Division Bench was of the opinion that no writ of mandamus, as prayed for by the petitioners, can be issued in their favour.

4. We have heard one of the petitioners in person and have given our careful consideration to the material on record. This being the admitted position that the petitioners do not have a licence in their favour, we think, the High Court committed no error in declining to issue a writ of mandamus, as prayed for by the writ petitioners. However, having regard to the facts and circumstances of the case, the special leave petitions are disposed of with a direction to Chandigarh Administration to consider the case of the writ petitioners sympathetically as and

when it decides to grant fresh licences either for the grain market in Sector 26 or for any other market.