

Between vs State Of Himachal Pradesh Through on 29 June, 2022

Bench: Sabina, Satyen Vaidya

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Reportable/Non-reportable
IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
ON THE 29th DAY OF JUNE, 2022

BEFORE

HON'BLE MS. JUSTICE SABINA

&

HON'BLE MR. JUSTICE SATYEN VAIDYA
CIVIL WRIT PETITION No. 2185 OF 2019

Between:-
SMT. GEETA DEVI,
W/O SH. SURESH KUMAR,
RESIDENT OF VILLAGE BHANGROTU,

P.O. NER CHOWK, TEHSIL BALH,

DISTRICT MANDI, H.P.

....PETITIONER

(BY MR. G.R. PALSRA, ADVOCATE)

AND

1. STATE OF HIMACHAL PRADESH THROUGH

SECRETARY (URBAN DEVELOPMENT) TO THE
GOVERNMENT OF HIMACHAL PRADESH,

SHIMLA-2.

2. MUNICIPAL COUNCIL, MANDI,

THROUGH ITS EXECUTIVE OFFICER,
MANDI TOWN, DISTRICT MANDI, H.P.

3. SH. RAJINDER KUMAR
S/O NOT KNOWN TO THE PETITIONER,
CONTRACTOR OF MUNICIPAL COUNCIL, MANDI
SERI BAZAR, INDIRA MARKET MANDI TOWN,
DISTRICT MANDI, H.P.

..RESPONDENTS

(MR. ANIL JASWAL, ADDITIONAL
ADVOCATE GENERAL FOR R-1

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MR. H.S. RANGRA, ADVOCATE FOR
R-2)

This petition coming on for orders this day, Hon'ble

Mr. Justice Satyen Vaidya, passed the following:-

ORDER

By way of instant petition, petitioner has prayed for the following substantive reliefs:-

- i) "That the respondents, especially respondents No. 2 and 3 may kindly be restrained from evicting to the petitioner from the Main Bazar, Near HDFC Bank, Mandi in the roof of Indira Market by issuing a writ of mandamus.
- ii) That the respondents no. 2 & 3 may kindly be directed to allow the petitioner to do her business in the place allotted to her in license Annexure P-2 by issuing a writ of mandamus."

2. Petitioner has approached this Court without pleading existence of any legal right in her favour. As per petitioner, she is a hawker and is doing business at a particular place in Mandi town. This by itself does not entitle the petitioner to claim, as a matter of right, to continue her business at the same place.

3. There is nothing on record to show that any lease or licence was granted in favour of the petitioner to occupy that place for her business. Petitioner cannot even take benefit of a certificate or registration issued under the Food Safety and Standards Act, 2006 (Annexure P-2). Such certificate is not a lease or licence from the local authority.

On the strength of a licence issued under the Food Safety .

and Standards Act, 2006, petitioner cannot claim right to do business as a hawker at the place of her choice.

4. It is not the case of the petitioner that she is allotted a space by the Town Vending Committee after declaration of area as vending zone under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

5. We have also been informed that the petitioner has been offered an alternative space in the vending zone named as Paddal parking in Mandi town, but she has refused to accept the offer. In these circumstances, the petition is nothing but an abuse of process of Court. No case for interference by this Court under Article 226 of the Constitution of India is made out. Accordingly, the petition is dismissed, so also the pending application(s), if any.

(Sabina)
Judge

June 29, 2022
(naveen)

(Satyen Vaidya)
Judge

