

Allotment/Transfer of Built up Booths in any Sector on Lease/Hire Purchase basis in Chandigarh Rules, 1991

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No. 8/1/2-UTFI (4) 91/2253. - In exercise of the powers conferred upon him under section 22 of the Capital of Punjab (Development and Regulation) Act, 1952, the Administrator, Union Territory, Chandigarh, is pleased to make the following rules for the allotment/transfer of built-up booths on lease/hire purchase basis (for 99 years) in Chandigarh, namely :-

1. These Rules may be called the "Allotment/Transfer of Built up Booths in any Sector on Lease/Hire Purchase basis in Chandigarh Rules, 1991".

2. They shall come into force at once.

3. In these Rules unless the context otherwise requires :-

'[(a) "Agreement" means an agreement in amended form "C" appended to these Rules.]

(b) "Allotment" means the grant by or on behalf of the Administration of a right of use and occupation of any booth to any person and the word allottee shall be construed accordingly.

'[(c) "Competent Authority" means the Estate Officer or any other officer duly authorised by him in this behalf.]

(d) "Hand Cart" means a cart driven manually or by pedals and used for carrying articles for sales.

(e) "Built up Booths" means structure of a specified design erected in the different rehri markets or any other Sector.

(f) "Hawker Licence" means the licence issued under the Bye-laws for Regulation of Hawkers in Chandigarh, 1961.

(g) "Trade" means specified trade as mentioned in Schedule "T" which may be revised from time to time by the Competent Authority. Change from eatables trade to the general trade and vice versa will not be permitted.

'[3-A. "Agreement" means an agreement in amended form "C" appended to these rules.]

4. Subject to the control of the Chief Administrator, Chandigarh, the competent authority shall be responsible for the maintenance and control of built up booths in any Sector for the realisation of premium and lease money and the eviction of persons occupying these booths. The Competent Authority shall have powers :-

(a) To make the allotment/re-allotment of booths.

(b) To receive all payments of money under the Rules.

1. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 11.2.1993
2. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 24.3.1993

(c) To re-enter, re-take or resume possession of any booth whenever required or to order the removal of unauthorised occupants.

(d) To prescribe form or register and licence for receipt and other record which he considers necessary.

5. Eligibility. The Competent Authority may allot a built up booth in the market in any sector to a person if :

¹[(a) he holds a valid hand cart licence or hawkers licence as well as a driving licence and owns a hand cart or a behngi/khoncha/phari on the date of issue of the notification or on the date as may be prescribed for the purpose by the competent authority.]

(b) he does not own a commercial site/shop in Union Territory of Chandigarh, Mohali or Panchkula in his own name or in the name of any member of his family dependent upon him and the total family income from all sources does not exceed ²[Rs. 7500/- per mensem (Rupees seven thousand and five hundred only)] for which he shall have to furnish an affidavit duly attested by the Executive Magistrate, Chandigarh to this effect.

(c) he does not suffer from any contagious disease for which he shall furnish a medical certificate of fitness.

³[Provided that in case any applicant, who after having submitted an application under this scheme and having been found eligible under this Scheme by the Competent Authority, dies before formal allotment letter is issued, all the legal heirs may be jointly entitled for allotment of booth under these rules.]

COMMENTARY

Legal heir's entitlement – Petitioner's husband was allotted a built up booth in Rehri Market in Sector 18, Chandigarh in 2005 – He disappeared thereafter and was not traceable for more than 7 years resulting in a legal death – Petitioner was dispossessed of his booth on the ground that he had already been allotted another booth – Hence revision – From reading of above Rules, as amended from time to time, order of cancellation of allotment cannot be sustained – As her husband had deposited earnest money for allotment in compliance of the Rules, was eligible for allotment of booth in question – She as legal heir of deceased allottee cannot be dispossessed in the name of mere technicalities – Respondent is directed to deliver possession of booth No. 47 in Rehri Market 18 within one month – Petition allowed with cost of Rs. 5,000 – *Preeti Lata v. Finance Secretary of Chandigarh Administration*, 2014(2) Haryana Law Reporter 503 D.B.

⁴[5-A. The Competent Authority may allot a built-up booth in the market in any Sector to :—

(a) such registered Kashmiri migrants as had been provided temporary sites for the sale of goods in Sector 20 and 22 and are recommended for allotment by the Deputy Commissioner, Union Territory, Chandigarh;

(b) such persons who were running shops and other commercial establishments along V-3 road dividing Sector 40 and 41 and in the vicinity thereof, and are recommended for allotment by the Estate Officer, Union Territory, Chandigarh;

(c) Government and Semi-Government departments and Undertakings that provide public utility services.]

1. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 23.1.2002 at page 415

2. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 28.6.2001

3. Inserted vide Chd. Admn. Gaz. (Extra) Notification dated 4.8.2008 at page 826

4. Added vide Chd. Admn. Gaz. (Extra) Notification dated 6.1.1998

COMMENTARY

Allotment of booth – Kashmiri migrants – The petitioners used to live in Sri Nagar and had to migrate from Valley for the reasons beyond their control on account of adverse circumstances – They are genuine and bona fide Kashmiri Migrants – It is accordingly held that the petitioners have fully satisfied the requirement of Rules 5-A and are eligible for consideration for allotment of the built up booth sides. – Respondents directed to earmark booth sides of allotment to Kashmiri Migrants as provided in Rule 5-A – Petition allowed – *Agya Ram v. U.T. Administration*, 2009(2) Haryana Law Reporter 252

6. The Competent Authority shall fix time and date for the actual shifting of persons who are allotted booths under the scheme from the rehri markets. The persons who are in possession of rehri/hawker licence shall invariably surrender their licence to the Licensing Officer forthwith.

7. (a) The eligible persons shall within 10 days of the publication of such notice submit an application to the Licensing Officer/Competent Authority in '[amended form "A" and amended form "B"]' appended to these rules. The form will be supplied by the Competent Authority on demand free of cost. The applicant shall also furnish an affidavit in '[amended form "A" and amended form "B"]' duly attested by the Executive Magistrate, Chandigarh affirming all facts which make him eligible for the allotment of built-up booths in different rehri markets.

(b) The eligible person shall have to register himself for the allotment of booths after paying Rs. 100/- as registration fee to the competent authority. The eligible persons who are desirous of the allotment of booths shall have to complete 33% of the premium as determined by the competent authority on demand within a stipulated period as prescribed by the competent authority.

8. Every allottee of the booth shall have to vacate the parking site in his possession in the rehri market and hand over its vacant possession within the period prescribed by the competent authority.

¹[9. (a) The allotment of booths shall be made to the eligible applicants by draw of lots. Refusal of an individual to participate in the draw of lots or to accept allotment through draw of lots would render him ineligible under these rules for further allotment.

(b) Failure to utilise the built up booth for the purpose for which it is allotted within a time limit of six months from the date of offer of possession, shall amount to a breach of conditions of lease and the lease shall be liable to be cancelled on this ground.]

10. The applicants who are found successful after the draw of lots shall be issued allotment letters by the competent authority '[in Form "E" appended to these rules.]' Every applicant shall be required to deposit the amount of security equal to the amount of 3 monthly instalments of premium apart from one instalment of premium which is payable in advance with the Estate Officer within fifteen days of the receipt of allotment letter. In case the allottee fails to deposit the aforesaid amount within the prescribed period his allotment shall be treated as cancelled.

²[11. (a) The amount of premium "Hire Money" as fixed by the Administration as well as the cost of construction of booth shall be recoverable within twelve

1. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 11.2.1993

2. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 20.10.2003

3. Inserted vide Chd. Admn. Gaz. (Extra) Notification dated 11.2.1993

4. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 28.4.2003

years in quarterly equated instalments along with interest at the rate prescribed in sub-rule (2) of Rule 12 of the Chandigarh Lease-hold of Sites and Building Rules, 1973, as amended from time to time. The rate of interest as specified on the date of allotment shall be applicable.

(b) In case of delay in payment, interest on delayed payments shall chargeable at the rate specified in sub-rule (3A) of Rule 12 of the Chandigarh Lease-hold of Sites and Building Rules, 1973. The rate of interest specified on the date of default shall be applicable.]

12. Every allottee of booth shall pay th monthly instalment of premium (rent) on or before the 10th day of the month following the month in which it falls due.

13. The lease shall commence from the date of allotment and shall be for a period of 99 years. After the expiry of the said period of 99 years, the lease may be renewed for such further period on such terms and conditions as the Administration may decide. In addition to the premium, the lessee shall pay ground rent :-

(I)(a) at the rate of 2-1/2% per annum of the premium for the first 33 years.

(b) at the rate of 3-3/4% per annum of the premium for the next 33 years.

(c) at the rate of 5% per annum of the premium for the remaining 33 years.

(II) The ground rent shall be payable annually on the due date without any demand from the '[Estate Officer]' in addition to the monthly equated instalment of premium and interest.

Provided that the '[Estate Officer]' may for good and sufficient reason, extend the time for the payment of rent due upto six months on further payment of penal interest at the rate of 12% per annum.

(III) If the ground rent is not paid by the extended date the lessee shall be liable to pay the penalty not exceeding 10% of the amount due which may be imposed and recovered in the manner laid in section 8 of the Capital of Punjab (Development and Regulation) Act, 1952 as amended from time to time :

Provided that no order under this sub clause shall be made unless the lessee has been given a reasonable opportunity of being heard.

14. The lessee shall not assign his/her right in the lease and shall not sublet, transfer or otherwise part with in any manner, the possession of the booth or any part thereof. Partnership for running the business in the said booth shall be construed as subletting.

15. ²[(i) A person who has been allotted a booth under the scheme shall not transfer by way of sale, gift, mortgage or otherwise his title or interest in the lease for a period of 15 years from the date of allotment on hire purchase basis. He shall execute higher purchase agreement in amended form "C" within the time prescribed by the competent authority and execute the lease deed in Form "D" after the expiry of fifteen years period from the date of allotment :

Provided that nothing in this rule shall apply to the case where the booth is mortgaged to a nationalised bank for the payment of premium or for business purpose but in such case the first charge on the booth shall be retained by the Estate Officer, Chandigarh]

(ii) An allottee of a booth under these rules shall not be entitled to execute a General Power of Attorney or Special Power of Attorney in respect of affairs of booth in any manner except with the prior permission of Competent Authority.

16. Booth shall be used exclusively for the purpose and trade for which it has been allotted and for no other purpose.

1. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 23.4.1993

2. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 2.9.1993

17. The allottee shall not make any addition or alteration in the booth allotted to him/her.

18. The allottee shall be individually and jointly responsible for the payment of expenditure on installation of water meter and water stand post or as decided by Competent Authority.

19. The expenditure on the supply of electric connection shall be borne by the allottee and he shall pay electricity charges in accordance with the rules of Electricity Department, Chandigarh Administration.

20. The allottee shall not keep or store empty packing cases or basket or goods or any other material on the road or projection of the booth or in the open space around the booth.

21. The allottee shall at all times keep and maintain the booth in a proper state of cleanliness to the satisfaction of the competent authority.

22. The Competent Authority may through his officers and officials at all reasonable times, in a reasonable manner, enter in or upon any part of booth for the purpose of ascertaining as to whether the allottee has duly observed the conditions of allotment.

23. The allottee shall abide by the provisions of the Capital of Punjab (Development and Regulation) Act, 1952 and the Rules framed thereunder from time to time. He shall also abide by the provisions of the Chandigarh Lease Hold of Sites and Building Rules, 1973 and conditions of the purpose contained in the allotment letter.

24. After payment of 1st instalment of the premium and amount of security, the lessee shall execute a hire purchase agreement in [amended form "C" appended to these rules] in such manner as may be directed by the Competent Authority within 6 months from the date of allotment or within such extended period as the competent authority may for good and sufficient reasons permit and get the same registered with the Sub-Registrar, Chandigarh.

25. The lessee shall bear and pay all expenses in respect of execution and registration of the hire purchase agreement/lease deed including the stamp duty and registration fee payable there upon in accordance with the law in force at the time of the execution and registration.

26. In case an instalment of premium (Rent/hire money) under clause 13 (1) (II) is not paid by the 10th of the month following the month in which it falls due, a notice shall be served on the allottee calling upon him to pay the instalment together with the penalty which may be extended upto 10% of the instalment payable. If the payment is not made within 15 days or such extended period as may be determined by the competent authority but not exceeding 3 months in all from the date on which the instalment was originally due, the competent authority may cancel the lease and forfeit whole or part of the premium and the ground rent, if any, already paid in respect thereof which in no case shall exceed 10% of the total amount of the premium, interest and rent payable in respect of booth :

Provided that no order cancelling the lease shall be passed unless a lessee has been given a reasonable opportunity of being heard.

27. The order passed by the competent authority cancelling the lease of booth shall be appealable to the Chief Administrator, Chandigarh within 30 days from the date of issue of the order. A revision against the order passed by Chief Administrator in appeal shall lie to the Administrator of the Union Territory of Chandigarh, within 30 days from the issue of the order.

1. Substituted vide Chd. Admn. Gaz. (Extra) Notification dated 11.2.1993

2. Added vide Chd. Admn. Gaz. (Extra) Notification dated 6.1.1998

3. See Chandigarh Admn. Gaz. (Extra) Notification dated 11.2.1993

