

## MUNICIPAL CORPORATION, HISAR

To

Hon'ble NGT,  
[Judicial-ngt@gov.in](mailto:Judicial-ngt@gov.in)

Memo No. 511-1

Dated:- 05/02/2023

**Subject:- Seeking adjournment for file reply for period of three weeks.  
Regarding Hon'ble NGT order dated 23.11.2022. In Matter of  
Original Application No 847/2022 in matter of Jai Ram Dass Chawla  
& Anr. Versus Municipal Corporation Hisar & Ors.**

With regards to this it is submit that the detail action taken report on the matter was already submitted in the office of Haryana State Pollution Control Board, Hisar vide letter no. 40/B.I. dated 27.01.2023 (Copy Attached).

It is further submitted that letter bearing memo no. 83/LFA dated 03.02.2023 was received in this office of under sign on dated 04.02.2023, after going to the said letter it was revealed that the detailed para wise reply is to be submitted to your worthy office for which some time is required in the interest of Justice. Therefore, it is prayed that considerable time for a period of three weeks may kindly be grant for submission of proper reply in this matter.

The delay in submission of detail reply was not intently and was due to the advertence and for the reason mention above.

  
for Commissioner,  
Municipal Corporation,  
Hisar.

CC:-

- 1- Director, Urban Local Bodies Department Haryana, Panchkula.
- 2- Deputy Commissioner, Hisar for kindly information w.r.t 83/LFA dated 03.02.2023 on the subject cited above.

  
for Commissioner,  
Municipal Corporation,  
Hisar.

## कार्यालय नगर निगम, हिसार।

सेवा मे,

प्रदूषण विभाग,  
हिसार।

क्रमांक 40/β.2 दिनांक 27/01/2023

**Sub:-** Regarding Hon'ble NGT order dated 23-11-2022 passed in the original Application No 847/2022 in matter of Jai Ram Dass Chawla & Anr. Versus Municipal Corporation Hisar & Ors.

**Ref:** District Town Planner, Hisar letter no HR/DTP/-E/4607/2022 dated 28-12-2022 & Hon'ble NGT order dated 23-11-2022 passed in the original Application No. 847/202 in matter of Jai Ram Dass Chawla & Anr. Versus Municipal Corporation Hisar & Ors.

उपरोक्त विषय अनुसार आपके कार्यालय के पत्र क्रमांक एच.एस.पी.सी.बी./एच.आर./2022/3993 दिनांक 28.12.2022 के सन्दर्भ में।

विषयाधीन बारे दिनांक 20.12.2022 को नगर निगम के कर्मचारी, आपके विभाग के कर्मचारी तथा डी.एफ. ओ वन विभाग हिसार द्वारा संयुक्त रूप से सुन्दर नगर की ग्रीन बेल्ट में स्थित प्लाटों का निरीक्षण किया गया था जिस बारे कार्यालय रिकार्ड अनुसार रिपोर्ट निम्न प्रकार से है:-

- 1 नगर निगम कार्यालय द्वारा सुन्दर नगर की ग्रीन बेल्ट पर लोगो द्वारा निर्माण किया हुआ था जबकी सुन्दर के स्वीकृत ले-आउट प्लान में उक्त रकबा खाली दर्शाया गया था। अवैध निर्माण करने के कारण कार्यालय द्वारा हरियाणा नगर निगम अधिनियम 1994 की धारा 408ए के तहत नोटिस दिया गया था। जिसके सन्दर्भ में अवैध कब्जाधारियों द्वारा नोटिस का जबाव दिया गया था तथा अवैध कब्जाधारी नोटिस के सन्दर्भ में अवैध कब्जाधारी माननीय पंजाब एवं हरियाणा उच्च न्यायालय में CWP No 15110 of 2021 केस दायर किया गया जिसमें माननीय उच्च न्यायालय द्वारा दिनांक 13.08.2021 को आदेश पारित किये गये कि "A final View in this matter would be taken in terms of passing a detailed speaking order and after taking into consideration the reply submitted by petitioners at Annexure P-38 within a period of 2 months from today तथा अन्य CWP No 15111 of 2021 में दिनांक 19.08.2021 को आदेश पारित किये गये कि Demolition of the construction of the petitioners which is the subject matter of the impugned notices dated 18-01-2021 (Annexure P-18 to P-24) would not take place meanwhile and would be subject to the outcome of the final order that is now to be passed as per undertaking furnished by the respondents."
- 2 माननीय न्यायालय द्वारा पारित आदेशों की पालना में सभी अवैध निर्माणकर्ताओं को दिनांक 18.04.2022 को आयुक्त नगर निगम कार्यालय में उपस्थित होकर अपना पक्ष रखने बारे कहा गया था। अवैध निर्माणकर्ताओं द्वारा उपस्थित होकर अनुरोध किया गया कि CWP No 15110 of 2021 में सलंन हमारे प्रतिवेदन पर निर्णय लेते हुए अवैध निर्माण नियमित किये जाये। उक्त केस में " माननीय आयुक्त महोदय द्वारा संक्षीत में आदेश पारित किये गये कि सुन्दर नगर के स्वीकृत मानचित्र में दर्शाई गई ग्रीन बेल्ट की भूमि पर अवैध निर्माण करने के कारण 55 अवैध निर्माणकर्ताओं को हरियाणा नगर निगम अधिनियम 1994 की धारा 250,261 के तहत नोटिस जारी किये गये। सरकार द्वारा अधिसूचना दिनांक 24.03.2009 जारी करके Scheduled Road के नियंत्रक क्षेत्र में स्थित अवैध निर्माण को नियमित करने बारे कमेटी का गठन किया गया सुन्दर नगर ग्रीन बेल्ट की भूमि में निर्मित 20 अवैध निर्माणकर्ताओं द्वारा उक्त कमेटी से निर्धारित फिस जमा करवाकर अपने अवैध निर्माणों को नियमित किया गया है उनको गिराने का कोई औचित्य नहीं बनता नगर परिवद द्वारा उक्त प्लाटों को नैशनल हाईवे से 30 मीटर की दूरी में स्थित होने के कारण ही स्वीकृत ले-आउट प्लान में सामिल नहीं किया गया था लेकिन जब जिला नगरयोजनाकार की अध्यक्षता की कमेटी द्वारा इन निर्माणों को नियमित किया जा चुका है, ऐसी अवस्था में उन्हे स्वीकृत ले-आउट प्लान से बाहर रखने का कोई औचित्य ना बनता है। इन अवैध निर्माणों को नगर निगम द्वारा जारी सभी नोटिसों को दफतर किये जाते हैं तथा शेष प्लाटों में निर्माण सरकार द्वारा जारी अधिसूचना दिनांक 24.03.2009 अनुसार नियमित नहीं किये हैं उन पर किया गया निर्माण अब भी अवैध श्रेणी में है। इसलिए नगर निगम द्वारा जारी किये गये नोटिस सही है तथा हरियाणा नगर निगम अधिनियम 1994 की धारा 261 में प्रदत्त शक्तियों को प्रयोग करते हुए अवैध निर्माण गिराने के आदेश पारित करता है। अवैध निर्माणकर्ता आदेश प्राप्ति के 15 दिन के अन्दर-2 अपने स्तर पर किये गये अवैध

निर्माण को गिरा लेने अन्यथा बिना किसी सूचना के अवैध निर्माण गिरा दिये जायेंगे जिसके हर्जे-खर्चे के अवैध निर्माणकर्ता स्वयं जिम्मेवार होंगे' (प्रति सालंगन)। जिसकी सूचना इस कार्यालय के पत्र क्रमांक 3087-3144 दिनांक 28.04.2022 के तहत अवैध निर्माणकर्ता को दे दी गई थी।

- 3 तत्कालीन आयुक्त आदेश दिनांक 28.04.22 को विरुद्ध कोस नं० CWP No 10124 of 2021 रघुवीर सिंह उर्फ रघुवीर घहल व अन्य बनाम स्टेट ऑफ हरियाणा व अन्य में माननीय उच्च न्यायालय में कोस दायर किया गया जिसका निर्णय दिनांक 12.05.2022 को माननीय उच्च न्यायालय द्वारा दिया गया कि "Looking at what has now been argued by learned counsel, if the appellate authority eventually upholds the order of the commissioner Municipal Corporation, Hisar, demolitions will not take place for a period of only one week after the service of a certified copy of that order on the petitioners". ( Copy Attached ).
- 4 तत्पश्चात सभी अवैध निर्माणकर्ता द्वारा कोस नं० EA 15405/MC Act से EA 15429/MC Act के तहत माननीय आयुक्त मण्डल, हिसार मण्डल, हिसार की अदालत में कोस दायर किए गए हैं जो कि विद्यमान है जिनकी आगामी तिथि 17.01.2023 निश्चित है।  
अतः उक्त से मे विस्तृत रिपोर्ट आगामी कार्यवाही हेतु रिपोर्ट प्रस्तुत है।

कृते: आयुक्त,  
नगर निगम हिसार।

कार्यालय नगर निगम, हिसार।

आदेश

क्रमांक 239/PA/CML

दिनांक 26-04-2022

माननीय पंजाब एवं हरियाणा उच्च न्यायालय में CWP No. 15110 of 2021 में दिनांक 13.08.2021 को आदेश पारित किये गये कि 'A final view in this matter would be taken in terms of passing a detailed speaking order and after taking into consideration the reply submitted by the petitioners at Annexure P-38 within a period of 2 months from today' तथा अन्य CWP No. 15111 of 2021 में दिनांक 19.08.2021 को आदेश पारित किये गये कि 'Demolition of the construction of the petitioners which is the subject matter of the impugned notices dated 18.01.2021 (Annexure P-18 to P-24) would not take place meanwhile and would be subject to the outcome of the final order that is now to be passed as per undertaking furnished by the respondents.'

माननीय न्यायालय द्वारा पारित आदेशों की पालना में सभी अवैध निर्माणकर्ताओं व शिकायतकर्ताओं को नोटिस दिनांक 15.04.2022 जारी करके दिनांक 18.04.2022 को अद्योहरस्ताक्षरी के कार्यालय में उपस्थित होकर अपना पक्ष रखने वाले लिखा गया। दिनांक 18.04.2022 को अवैध निर्माणकर्ताओं द्वारा उपस्थित होकर अनुरोध किया कि CWP No. 15110 of 2021 में संलग्न हमारे प्रतिवेदन पर निर्णय लेते हुए अवैध निर्माण नियमित किये जायें।

इस केस के संक्षेप में तथ्य इस प्रकार से हैं। Animal Husbandry Coop. House Building Society, Sunder Nagar, Hisar ने वर्ष 1985-86 में 443 प्लॉट काटे गये थे। दिनांक 01.02.1990 को इन प्लॉटों के इलावा 55 नये प्लॉट Administrator, Animal Husbandry Coop. House Building Society, Sunder Nagar, Hisar सोसायटी द्वारा पहले ग्रीन बैल्ट दर्शाई गई भूमि पर काटे गये थे। इस सोसायटी द्वारा प्रस्तुत ले-आऊट प्लान को नगर परिषद, हिसार द्वारा पत्र क्रमांक 2198 दिनांक 21.12.2001 व प्रस्ताव संख्या 27 दिनांक 07.09.2001 अनुसार पारित प्रस्ताव "सर्वसम्मति से स्वीकार है वाईपास की सड़क के पास जितना क्षेत्र निर्माण नहीं हो सकता, उतने क्षेत्र का ले-आऊट प्लान अस्वीकार है। शेष ले-आऊट प्लान इस शर्त के अनुसार कि नगर परिषद द्वारा दिये गये नोटिस की अवधि में शेष 75 प्रतिशत विकास चार्जिज नगर परिषद में जमा करवाये जाने पर स्वीकार है।" गौरतलब है कि जिस समय सोसायटी द्वारा ले-आऊट प्लान नगर परिषद कार्यालय में स्वीकृति हेतु जमा करवाया गया, उस समय उसमें ग्रीन बैल्ट के 55 प्लॉट भी शामिल थे। दिनांक 17.09.1999 को कार्यकारी अभियन्ता, लोक निर्माण विभाग, हिसार द्वारा नगर परिषद, हिसार को लिखा गया कि सोसायटी द्वारा प्रस्तुत ले-आऊट प्लान में वर्णित प्लॉट नं 444 से 498 (55 प्लॉट) नैशनल हाईवे से 30मी0 की दूरी में स्थित हैं। इसलिए इन पर निर्माण नहीं किया जा सकता। इन्हे ग्रीन बैल्ट ही रखा जायें। इस आधार पर सोसायटी द्वारा प्रस्तुत ले-आऊट प्लान को संशोधित करके ग्रीन बैल्ट में दर्शाये गये प्लॉट नं 444 से 498 को कैंसिल करते हुए नगर परिषद द्वारा दिनांक 21.12.2001 को संशोधित ले-आऊट प्लान स्वीकृत किया गया। सुन्दर नगर के स्वीकृत मानचित्र में दर्शाई गई ग्रीन बैल्ट की भूमि पर अवैध निर्माण करने के कारण 55 अवैध निर्माणकर्ताओं को हरियाणा नगर निगम अधिनियम 1994 की धारा 250, 261 के तहत नोटिस दिनांक 18.01.2021 व 30.07.2021 जारी किये गये।

इसके अतिरिक्त CWP No. 8582 of 2004 Ran Singh Malik Vs State of Haryana etc. में पारित आदेशों की पालना में Director Town and Country planning cum-Executive Engineer Provincial Division No. 1, PWD, D&R Branch Hisar द्वारा दिनांक 30.12.2005 को आदेश पारित किये गये कि "The existing structure of appellant even violates their own resolution-resolution no. 3 dated 09.11.1987 wherein it had been specifically stipulated that after leaving a 30 meter belt only the remaining area shall be carved out in the plots and allotted its members. Existing structure of the appellant is within 30 meters belt (left as green belt) along Delhi Hisar Road-a

8/2/22

scheduled road/bye pass. Existence of building within Municipal Limit or outside qua bye pass of a scheduled road has no legal bearings appellants may move to Animal Husbandry House Building Cooperative Society, Hisar to allot them alternative sites as the present site had been allotted by the said society to them. The action against Governmental/Semi Governmental/Organizations buildings under scheduled road Act-1963 to demolish the structures in violation of Section-3 is in progress, as and when on formalities will be completed these structures will be dismantled".

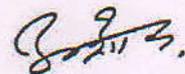
सरकार द्वारा अधिसूचना दिनांक 24.03.2009 जारी करके Scheduled Road के नियंत्रक क्षेत्र में स्थित अवैध निर्माणों को नियमित करने वाले कमेटी का गठन किया गया। सुन्दर नगर ग्रीन बैल्ट की भूमि में निर्मित 20 अवैध निर्माणकर्ताओं द्वारा उक्त कमेटी से निर्धारित फीस जमा करवाकर अपने अवैध निर्माणों को नियमित करवाया गया। शेष अवैध निर्माणकर्ताओं द्वारा माननीय चेयरमैन ट्रिब्यूनल, हरियाणा Justice J.C. Verma (Retd.) के समक्ष अपील दायर कर अवैध निर्माणों को नियमित करवाने वाले अनुरोध किया गया, जिस पर निर्णय लेते हुये ट्रिब्यूनल द्वारा दिनांक 31.10.2014 को आदेश पारित किये कि 'In my opinion, no useful purpose would be served taking action against such persons who were not able to apply within prescribed time because of a reason whatsoever but now if they are ready to apply for regularization of their building in question, their request can also be considered and may be considered by competent authorities.' इस फैसले के उपरांत भी किसी अन्य अवैध निर्माण को दिनांक 24.03.2009 सरकार की अधिसूचना द्वारा गठित कमेटी द्वारा नियमित नहीं किया गया।

सोसायटी द्वारा वर्ष 2019 में पूर्व में स्वीकृत ले-आऊट प्लान में संशोधन करके सभी प्लॉटों को ले-आऊट प्लान में स्वीकृत करने वाले अनुरोध किया गया।

उपरोक्त सभी तथ्यों से निष्कर्ष निकलता है कि जो निर्माण जिलानगर योजनाकार की अध्यक्षता वाली कमेटी द्वारा अधिसूचना दिनांक 24.03.2009 अनुसार निर्धारित फीस जमा करवाकर नियमित किये गये हैं, उनको गिराने का कोई औचित्य नहीं बनता। नगर परिषद द्वारा उक्त प्लॉटों को नेशनल हाईवे से 30 मी० की दूरी में स्थित होने के कारण ही स्वीकृत ले-आऊट प्लान में शामिल नहीं किया गया था लेकिन जब जिलानगर योजनाकार की अध्यक्षता वाली कमेटी द्वारा इन निर्माणों को नियमित किया जा चुका है तो ऐसी अवस्था में इन्हें स्वीकृत ले-आऊट प्लान से बाहर रखने का कोई औचित्य नहीं बनता। इन अवैध निर्माणों को नगर निगम द्वारा जारी सभी नोटिस दफ्तर दाखिल किये जाते हैं।

शेष प्लॉटों में निर्माण सरकार द्वारा जारी अधिसूचना दिनांक 24.03.2009 के अनुसार नियमित नहीं किये गये हैं। उन पर किया गया निर्माण अब भी अवैध की श्रेणी में है। इसलिए उनको नगर निगम द्वारा जारी किये गये नोटिस सही है तथा हरियाणा नगर निगम अधिनियम 1994 की धारा 261 में प्रदत्त शक्तियों का प्रयोग करते हुये अवैध निर्माण गिराने के आदेश पारित करता हूँ तथा अवैध निर्माणकर्ता आदेश प्राप्ति के 15 दिन के अन्दर-अन्दर अपने स्तर पर किये गये अवैध निर्माण को गिरा लें अन्यथा नगर निगम द्वारा बिना किसी सूचना के अवैध निर्माण गिरा दिये जावेंगे, जिसके हर्जे व खर्चे के अवैध निर्माणकर्ता स्वयं जिम्मेवार होंगे। उक्त आदेशों की प्रति भवन निरीक्षक, नगर निगम, हिसार को भेजकर लिखा जाता है कि आदेशों की प्रति सम्बन्धित अवैध निर्माणकर्ताओं को भिजवाना सुनिश्चित करें।

दिनांक:- 26-04-2022.



आयुक्त,  
नगर निगम, हिसार।

CWP-15110-2021 (O&amp;M)

B1.  
 B1. For Compliance of Hon'ble  
 JUDGE Court order dt 31.8.2021.  
 As per Hon'ble JUDGE Court Direction Annexure  
 P-38 speaking order passed with in 4 weeks.  
 29.9.2021

CWP-15110-2021 (O&M)  
 Date of Decision: 31.08.2021

Manish Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA  
 HON'BLE MR. JUSTICE VIKAS BAHL

\*\*\*\*

Present: Mr. S.S. Dinarpur, Advocate and  
 Mr. Ranjit Saini, Advocate for the petitioners.  
 Mr. Sandeep Moudgil, Advocate for respondent Nos.3 and 4.

\*\*\*\*

TEJINDER SINGH DHINDSA, J. (Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic COVID-19 situation and as per instructions.

Challenge in the instant petition is to the notices carrying even date i.e., 18.01.2021 (Annexures P-16 to P-37) and to a subsequent set of notices dated 30.07.2021 (Annexures P-39 to P-65), whereby, respondents have called upon the petitioners to remove the construction effected by the petitioners within a period of seven days and failing which action under Section 261 of the Haryana Municipal Corporation Act, 1994, would be initiated.

An advance copy of the petition had already been served upon the respondents.

Mr. Sandeep Moudgil, Advocate, has entered appearance on behalf

CWP-15110-2021 (O&amp;M)

-2-

of contesting respondent Nos.3 and 4.

The conceded position is that the petitioners have responded to the first set of notices dated 18.01.2021 in terms of filing a joint reply dated 22.02.2021 (Annexure P-38).

Mr. Moudgil, Advocate, has been candid in conceding that the reply has not been considered while issuing the second set of notices dated 30.07.2021 (Annexure P-39 to P-65).

Under such factual situation, we are not inclined to examine the validity/legality of the impugned show cause notices.

Mr. Moudgil, Advocate, submits that a final view in the matter would be taken in terms of passing a detailed speaking order and after taking into consideration the reply submitted by the petitioners at Annexure P-38 within a period of two months from today.

Statement is accepted.

No further directions are required to be passed.

Writ petition stands disposed of.

Pending application(s), if any, shall also stand disposed of.

It is clarified that we have not examined the issue on merits.

(TEJINDER SINGH DHINDSA)  
JUDGE

(VIKAS BAHL)  
JUDGE

August 31, 2021.

Whether speaking/reasoned:-  
Whether Reportable:-

Yes / No  
Yes / No.

108/1

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-15111-2021

Date of Decision: 19.08.2021

*B1*  
*As per Honble High Court Discretion*  
*Spending order passed within*  
*three months.* *16/24/21*

KAMLA DEVI AND OTHERS

... PETITIONERS

V/S

STATE OF HARYANA AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA  
HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S. Dinarpur, Advocate for the petitioners.

Mr. Sandeep Moudgil, Advocate for respondent Nos. 3 to 4.

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TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioners are aggrieved of the show-cause notices carrying even date i.e. 18.1.2021 (Annexures P-18 to P-24) as also subsequent notices dated 30.7.2021 (Annexures P-27 to P-38) issued by the Municipal Corporation, Hisar to remove the construction effected by them adjacent to Delhi-Sirsa road (in Sundar Nagar) by terming the same to be illegal.

Perusal of the notices dated 18.1.2021 (Annexures P-18 to P-24) and which are identically worded, petitioners have been called upon to show cause whether they have at any stage sought approval as regards the construction from the Corporation or from any other Department.

*B1*  
*for n.o.*  
*and compliance of*  
*High Court order.*  
*19/8/21*

CWP-15111-2021

- 2 -

It appears that petitioners have submitted replies which have been placed on record at Annexures P-25 and P-26 taking a categoric stand that their constructions stand regularized from the concerned District Town Planner.

We find that in the subsequent notices dated 30.7.2021 appended as Annexures P-27 to P-38 the ground taken in the reply has not even been adverted to much less dealt with.

Petitioners are before us fearing demolition.

An advance copy of the petition has been served upon the respondents.

Mr. Sandeep Moudgil, learned counsel appears for Municipal Corporation, Hisar for respondent Nos. 3 and 4 and after obtaining instructions from Mr. Rajinder Saini, Executive Officer, Municipal Corporation, Hisar makes a statement that a final decision with regard to the construction raised by the petitioners and the fate thereof would be taken in terms passing a reasoned order after taking into consideration the replies that have been submitted by the petitioners to the initial notices dated 18.1.2021 (Annexures P-18 to P-24) within a period of three months from today.

Statement is accepted.

Demolition of the construction of the petitioners which is the subject matter of the impugned notices dated 18.1.2021 (Annexures P-18 to P-24) would not take place meanwhile and would be subject to the outcome of the final order that is now to be passed as per undertaking furnished by the respondents.

CWP-15111-2021

- 2 -

It appears that petitioners have submitted replies which have been placed on record at Annexures P-25 and P-26 taking a categoric stand that their constructions stand regularized from the concerned District Town Planner.

We find that in the subsequent notices dated 30.7.2021 appended as Annexures P-27 to P-38 the ground taken in the reply has not even been adverted to much less dealt with.

Petitioners are before us fearing demolition.

An advance copy of the petition has been served upon the respondents.

Mr. Sandeep Moudgil, learned counsel appears for Municipal Corporation, Hisar for respondent Nos. 3 and 4 and after obtaining instructions from Mr. Rajinder Saini, Executive Officer, Municipal Corporation, Hisar makes a statement that a final decision with regard to the construction raised by the petitioners and the fate thereof would be taken in terms passing a reasoned order after taking into consideration the replies that have been submitted by the petitioners to the initial notices dated 18.1.2021 (Annexures P-18 to P-24) within a period of three months from today.

Statement is accepted.

Demolition of the construction of the petitioners which is the subject matter of the impugned notices dated 18.1.2021 (Annexures P-18 to P-24) would not take place meanwhile and would be subject to the outcome of the final order that is now to be passed as per undertaking furnished by

*(Signature)*

CWP-15111-2021

- 3 -

Disposed of.

It is clarified that we have not examined the issue on merits.

(TEJINDER SINGH DHINDSA)  
JUDGE

19.08.2021  
Janki

(VIVEK PURI)  
JUDGE

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



*Sunder Nagar Case  
after speaking order*

122

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-10124-2022  
Date of Decision: 12.05.2022

Raghubir Singh alias Raghuvir Chahal and others .....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH  
HON'BLE MR.JUSTICE LALIT BATRA

Present: Mr. S.S.Dinarpur, Advocate  
for the petitioners.

Mr. Aman Bahri, Addl.A.G., Haryana.

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioners seek issuance of a writ in the nature of '*certiorari/mandamus*' directing the respondents to quash the impugned notices dated 18.01.2021 (Annexures P-17 to P-36) and subsequent impugned orders dated 30.07.2021 (Annexures P-38 to P-58), issued by respondent no.5.

They further seek that the impugned order dated 26.04.2022 (Annexure P-61) passed by respondent no.4, be set aside.

They also seek a direction to respondents no.1 to 4 to regularise constructions over their respective plots and to stay the operation of the aforesaid impugned notices.

CWP-10124-2022

-2-

As regards the order dated 26.04.2022 passed by respondent no.4, i.e. the Commissioner, Municipal Corporation, Hisar, the following is the operative part of the said order:-

"The construction on the remaining plots has not been regularised as per the notification dated 24.03.2009 therefore, the construction on the said plots still fall within the category of unauthorised construction. Hence, the notices already issued by the Municipal Corporation are duly valid. Therefore, I while exercising powers U/s 261 of Haryana Municipal Corporation Act 1994, pass the order for demolishing the said illegal constructions and I direct the illegal constructions holders to demolish their illegal construction at their own level within a period of 15 days from the receipt of the orders, failing which Municipal Corporation without giving any notice would demolish their illegal structures/constructions and in that event illegal construction holders would themselves be responsible for damages and expenses. A copy of the orders is sent to Building Inspector, Municipal Corporation, Hisar, and he is instructed to ensure that copies of the orders are served upon the illegal construction holders."

Though learned counsel for the petitioners vehemently argues that the matter having been in litigation for a number of years, with various petitions earlier filed by identically placed persons as also the petitioners themselves, with the matter also having gone before the learned Tribunal constituted under Section 41 of the Punjab Scheduled Roads and Controlled Areas (Restriction of Unregulated Development) Act, 1963, and therefore it is a fit case where this court should invoke jurisdiction under Article 226/227 of the Constitution of India and adjudicate upon the said order itself, however, Mr. Aman Bahri, Addl.A.G., Haryana, who is sitting in court, has assisted this

CWP-10124-2022

-3-

court to point out that the order itself has been passed under the provisions of Section 261 of the Haryana Municipal Corporation Act, 1994, as is obvious from the aforesaid reproduction itself and with sub section (2) of Section 261 reading as follows:-

261(2)- Any person aggrieved by an order of the Commissioner made under sub-section (1) may prefer an appeal against the order to the court of the Divisional Commissioner of the Municipal area within the period specified in the order for the demolition of the erection or work to which it relates.

Hence, in our opinion with an efficacious alternative remedy being available to the petitioners, there would be no cause to invoke such jurisdiction by this court.

However, Mr. Dinarpur further argues that as a matter of fact the show cause notices and the orders themselves are void *ab initio* as it would not be provision of the Haryana Municipal Corporation Act, 1994, as would be applicable but those of the aforesaid Act of 1963; and that the matter with regard to which Act would be applicable, is subjudice before the Supreme Court whereby the judgment of a Full Bench of this court has been stayed in the case of State of Haryana and others vs. M/s Shiva Ice Factory, (Appeal (Civil) CC-21651-2009).

In our opinion even that fact would obviously be brought to the notice of the appellate authority by written pleadings if necessary by the petitioners, and with the appellate authority to thereafter pronounce its order on any appeal filed by the petitioners duly taking into consideration all law applicable on the subject, by passing a very detailed speaking order.

CWP-10124-2022

-4-

Looking at what has now been argued by learned counsel, if the appellate authority eventually upholds the order of the Commissioner, Municipal Corporation, Hisar, demolitions will not take place for a period of only one week after the service of a certified copy of that order on the petitioners.

The petition is disposed of.

(AMOL RATTAN SINGH)  
JUDGE

May 12, 2022

dlharamvir

(LALIT BATRA)  
JUDGE

Whether reasoned/speaking : Yes

Whether reportable : Yes