

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9942/2009, W.P.(C) 9943/2009 & W.P.(C) 9944/2009**

% **Date of decision : 13th October, 2009**

DARBARI LAL KATARIA Petitioner in WPC 9942/2009.
ADARSH CABLE INDUSTRIES Petitioner in WPC 9943/2009
GAURAV FANS & ANR. Petitioner in WPC 9944/2009
Through Mr. Anil Goel and Mr. Ashwani,
Advocates.

versus

DELHI POLLUTION CONTROL COMMITTEE Respondent
Through Mr. Rahul Kumar and Mr. Dinesh,
Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

1. This common order will dispose of the aforesaid writ petitions.
2. The petitioners herein have impugned order dated 19th June, 2009 passed by the Financial Commissioner dismissing their appeals and upholding the order passed by Delhi Pollution Control Committee refusing consent to operate under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.
3. Learned counsel for the petitioner has drawn my attention to the letter dated 4th January, 2006 by DDA with reference to Zonal Plan for Zone G-3 and the letter of MCD, Town Planning Department dated 6th

September, 2002 stating that the properties of the petitioners as per the sketch plan furnished by them form part of the area ear-marked for Light and Service Industry in the Zonal Plan of Zone-G.

4. In the impugned order passed by the Financial Commissioner, specific reference has not been made to the aforesaid documents. The Financial Commissioner, on the other hand, proceeds on the assumption that petitioners' units are located in an unplanned industrial area of Basaidara Pur and, therefore, are in a non-conforming area.

5. It is the contention of the petitioners that the activities undertaken by them fall in category F, Item No. 268 and 297 and are permitted in terms of Master Plan of Delhi, 2021. It is submitted that as per the Master Plan of Zone-G, Light and Service Industry are permitted in the said area and as per the letter of DDA dated 4th January, 2006, the draft Zonal Development Plan notified by Zone-G under Master Plan of Delhi, 2021 all manufacturing activities under the Light and Service Industry category are permitted in the said area.

6. The Financial Commissioner, in the impugned order without any discussion has held that the site under reference falls under Service Industry as per draft approved for Zone-G and hence and thereafter the industrial activities undertaken by the petitioners are not permitted.

7. In these circumstances, the impugned order dated 19th June, 2009 is set-aside and the matter is remanded back to the Financial

Commissioner for a fresh decision. The Financial Commissioner will take into account the letters written by the DDA and MCD. In case there is doubt about the manufacturing activity permitted in the area and the location of the units of the petitioners, help of DDA and MCD will be taken to identify and locate the units. In addition, the parties can also file relevant site plan to show the exact location of the petitioners.

8. The writ petitioners are accordingly disposed of. The parties will appear before the Financial Commissioner on 4th November, 2009 when date of hearing will be fixed in the matter. It will also open to the learned Financial Commissioner to issue notice to DDA/MCD in case he requires any clarification. No costs.

DASTI.

SANJIV KHANNA, J.

OCTOBER 13, 2009
Ag/P