

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Civil Writ Petition No.1605 of 2015

Date of Decision: 21.05.2015

Kuldeep Singh

..... Petitioner

Vs.

The State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ajay Jain, Advocate for the petitioner.

Mr. Shivendra Swaroop, A.A.G., Haryana
for respondent Nos.1 and 2.

Mr. Sandeep Moudgil, Advocate
for respondent Nos.3 to 6/Municipal Council, Rewari with
Dr. Vijay Pal Yadav, Executive Officer, M.C., Rewari.

JASWANT SINGH, J. (Oral)

The petitioner is engaged, *inter alia*, in the sale of Chicken in a shop, situated within the City of Rewari under the name and style of M/s Kuldeep Chicken Corner, Kewal Bazar, Rewari.

On 04.12.2001, he filed a suit for permanent injunction restraining the Municipal Council, Rewari from interfering in the functioning of his shop. The stand of the Municipal Council, Rewari was that he was selling chicken without proper licence under the Haryana Municipal (Regulation of Sale of Meat) Bye-Laws, 1976 (for short "Bye-Laws, 1976"). The suit of the petitioner/plaintiff was dismissed, vide judgment and decree dated 31.01.2006 (**Annexure P-1**), passed by learned Addl. Civil Judge (Sr. Divn.), Rewari. The appeal filed by the petitioner was

also dismissed by learned Addl. District Judge, Rewari, vide order dated 09.10.2007. The Regular Second Appeal No.711 of 2008 filed by the petitioner was, however, disposed of, vide order dated 27.04.2010 as under:-

“ During arguments the controversy between the parties has considerably narrowed down. It is agreed that the appellant shall make a proper application for a licence to sell chicken, to the respondents within one week from today and the respondents will consider the same as per law and till such time the application is decided, the appellant will not be restrained from running his business. In view of this agreement learned counsel for the appellant does not want to press this appeal.

Consequently this appeal is dismissed as not pressed in view of the above agreement between the parties. ”

Consequently, the petitioner made an application dated 07.05.2010 (**Annexure P-4**) for grant of licence, the same was rejected, vide impugned order dated 27.01.2015 (**Annexure P-5**).

Upon notice, contesting respondent Nos.3 to 5 have filed their reply. It is submitted that the site was inspected on 09.01.2015 by the State Committee for Slaughter Houses, and in view of 13 alive poultry birds and one dead bird found inside the premises, the site was sealed being in violation of the provisions of “*The Prevention of Cruelty to the Animals Act, 1960*”. For the said violation/offence, appropriate proceedings have since been initiated and are not subject matter of the present writ petition. In the written statement, it is also stated that since the premises were within the residential area, therefore, in the light of provisions of “*The Prevention of Cruelty to Animal (Slaughter House) Rules, 2001*” sealing of the shop was permitted. The reason for rejecting the request for grant of licence is that the same falls within the Market/residential area and far away from the “Meat Market”.

This view is based on the interpretation of the Instructions dated 15.04.2002 relating

to selling of Meat in the Slaughter Houses.

During the course of previous hearing, it transpires, and now not even disputed that as regards the sale of meat like chicken etc., the relevant provisions for grant of licence are under the Bye-Laws, 1976 and as such, The Prevention of Cruelty to Animal (Slaughter House) Rules, 2001 are not applicable for such an activity.

Accordingly, the officials were summoned to assist the Court.

At the time of hearing today, learned Counsel for the Municipal Council, Rewari, on instructions from Dr. Vijay Pal Yadav, Executive Officer, Municipal Council, Rewari, states that the application of the petitioner shall be reconsidered under the Bye-Laws, 1976 within two days from today and appropriate licence be issued for running/functioning of the Shop without hindrance.

It has to be accepted that in case, there is any subsequent violation of the terms of the licence, appropriate action in accordance with law would be permissible.

The correct stand on the part of the respondents at this belated stage is although appreciated, however, for the inconvenience caused to the petitioner and also possibly to the other such Shopkeepers, based on the absolutely incorrect interpretation of the provisions, the Municipal Authorities, Rewari are liable to be fastened with exemplary costs.

Learned Counsel for the petitioner, at this stage, states that he would be satisfied if he is granted and permitted to operate his shop in accordance with the licence at the site.

In view of the aforesaid circumstances, the writ petition is allowed and impugned order dated 27.01.2015 (P-5) is hereby set aside. The Municipal Council,

Rewari is directed to reconsider the application and issue the necessary licence to the petitioner within two days from today.

Taking a lenient view, Municipal Council, Rewari is directed to pay costs of ₹ 10,000/- to be deposited with District Legal Services Authority, Rewari on or before 30.06.2015.

Copy of this order be given to learned Counsel for the petitioner under the signatures of Bench Secretary of this Court.

May 21, 2015
Gagan

(JASWANT SINGH)
JUDGE