

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

CWP No.18422-2014

Date of Decision:29.01.2015

Ujjal Singh Lamba and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Ms. Manjari Joshi, Advocate,
for the petitioners.

Paramjeet Singh, J.

In view of the order of even date passed in CWP-3010-2014,
instant petition has become infructuous.

Dismissed as infructuous.

29.01.2015

parveen kumar

**(Paramjeet Singh)
Judge**

The instant writ petition under Articles 226/227 of the Constitution of India for quashing the order dated 04.04.2014 (Annexure P-6) and order dated 25.07.2014(Annexure P-7). W

Brief facts of the case are that petitioners are resident of area falling within the municipal limits of Municipal Council, Nurmahal. They have constructed their houses whose area is about five Marlas (125Sq yds.). Earlier they were required to pay the water rates for supply of water but in the year 2006 government of Punjab issued a notification dated 11 of July 2006 Annexure P-1 whereby residential units up to 5 Marlas were exempted from payment of water and Sewerage rates/charges. It is the case of the petitioners that a letter dated 12.03.2013 (Annexure P-2) was issued by the President of the municipal council on the basis of alleged door to door survey of houses. During the survey it has been found that some of the houses are marginally above five Marlas and they were required to pay water and sewerage rates but

due to the mistake of officials of the municipal Council they were exempted from payment of water rates. It is averred that recovery of the water rates beyond three years is not permissible and is barred by limitation. The affected persons made a representation to the municipal councilors and six councilors moved a requisition that people are facing great difficulty at their resources are limited. The house considered the creation and passed a regulation that Bill for the year 2013 – 14 be collected and Bill from July , 2006 to 31.03.2013 be exempted. The resolution was passed unanimously by the impugned order Annexure P-4 regional deputy director exercising the powers under section 232 of the Act suspended the resolution and reported to the state government state government exercising the power under section 235 of the Act confirmed the order passed by the regional deputy director.

Upon notice respondents appeared and has not filed written statement.

I have heard the learned counsel for the parties and perused the record.

The learned counsel for the petitioners vehemently contended that the Bill issued for payment of water rates is from 2006 to 2013 are illegal arbitrary. The learned counsel for the petitioner further contended that the demand raised by the petitioner is beyond three years, no recovery of arrears of water rates can be affected. Only legally recoverable dues can be recovered. It was contended that they had already paid their bills for the year 2011 to 2013. The only argument raised by the learned counsel for the petitioners is with regard to

limitation. The municipal Council is competent to pass a resolution exempting payment of water rates and house tax. The resolution passed by the municipal Council is legal and valid and had wrongly been stayed and is confirmed by the state government.

Per contra, the learned counsel for the state vehemently contended that taking a stand that as per notification Annexure P-1 all the houses whose area is up to 5 Marlas(125 Sq yds) are exempt from payment of water-rates. The area of the houses of the petitioners is more than five Marlas and they are well liable to pay the water-rates. A proclamation was made in the area of Municipal limits that only houses up to 5 Marlas are exempt from payment of water rates. The petitioners did not pay the water rates treating it as is exempt although area of their houses is more than five Marlas. The houses of the petitioners are not exempt from payment of water rates. The resolution passed by the municipal Council has been rightly suspended by the Deputy Director local government and confirmed by the director local government. It is also the stand of the deputy director in his reply that as per the revenue Department area of one Marla is equal to 272 sq feet whereas government has fixed an area of one Marla equal to 225 squares feet. In view of this houses of the petitioners are not exempt from payment of water rates. Municipal council cannot disobey the notification issued by the state government. The notification issued by the government is binding on the municipal Councils and corporations. The resolution is contrary to the provisions of law.

I have considered the rival contentions raised by the counsel

for the parties.

S,232,to 236 reproduce

Section 232 enables the regional Deputy Director who exercise the power of the Deputy Commissioner to suspend the execution of any resolution or an order if it is in excess of the powers conferred by law or contrary to the interest of public or likely to cause waste or damages of municipal funds or property. When any such order is passed by the authority exercising power under section 232 of the act that authorities is required to force with to the state government as envisaged in section 235 of the act of the with a statement of the reasons for making it. It is then for the State government to conform, modify or rescind the order the power under section 232 is wide and varied power of supervision and control which vest in the deputy director who exercise the power of deputy Commissioner as provided in the act . In the present case the regional the deputy-Director suspended the resolution for the reason that municipal Council is not following notification dated 11 July 2006 Annexure P-1 in letter and spirit the resolution of the municipal Council is contrary to the provisions of of law and the notification issued by the state government with respect to exemption of water charges for houses up to 5 Marlas. Since the petitioners were having area of their houses more than five Marlas they were not exempt from payment of water rates/charges. After suspending the resolution Annexure P-4 regional deputy director forthwith sent the same to the director who was exercising the power of state government the director of confirmed the same under section 235 of theAct. Admittedly the resolution passed by

the committee was contrary to the notification for exemption and is it is an act in excess of the powers conferred by law resulting in damages of mutual funds. Such is apparently contrary to the provisions of the Act and authorities have rightly acted in suspending and confirming the order of suspension of resolution.

In view of above, I do not find any illegality or perversity in the impugned order passed by the authority under Act and confirmed by the State Government as per provisions of law.

Accordingly the present petition is dismissed.

Costs made easy.

29.01.2015

parveen kumar

(Paramjeet Singh)
Judge