

CWP No. 21933-2014

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

CWP No. 21933-2014 (O & M)

Date of Decision: 13.01.2015

M/s Samar Brothers

... 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: Mr. R.S.Rai, Sr. Advocate with
Mr. Sandeep Wadhawan, Advocate,
for the petitioner.

Mr. Inder Pal Goyat, Addl. A. G. Punjab.

Mr. Sandeep Khunger, Advocate,
for respondents no.3 and 4.

Mr. Seema Arora, Advocate,
for the applicant in CM-240-CWP-2015.

Paramjeet Singh, J.(Oral)

Instant writ petition has been filed under Article 226 of the Constitution of India for setting aside the letter bearing No.3072 dated 26.09.2014 (Annexure P-20) passed by respondent no.4-Sub Divisional Officer, Municipal Council, Abohar whereby building completion certificate granted to the petitioner for the purpose of exhibition of Films through Video Cassette Player has been withdrawn and for setting aside the order dated 26.09.2014 (Annexure P-21) passed by respondent no.2

CWP No. 21933-2014

whereby licence already granted to the petitioner for the purpose of exhibition of films through video cassette player has been suspended.

In short, facts are to the effect that the petitioner had moved application for issuance of licence for running Television Screen through Video Cassette Player under the provisions of Punjab Exhibition of Films on Television Screen through Video Cassette Recorder (Regulation) Act, 1989 to the Deputy Commissioner. Thereafter, 'no objection certificates' were got issued from the various departments which are annexed with the paper-book. In pursuance of 'no objection certificates', licence was granted to the petitioner. Thereafter, the report was sought from the Municipal Council, Abohar under the orders of the Deputy Commissioner, Fazilka which was given on the same date vide letter (Annexure P-19). Thereafter, the impugned letters (Annexure P-20 and P-21) were issued without issuing any show cause notice and affording any opportunity of hearing to the petitioner.

I need not go into further details for the purpose of disposal of this petition. It is also required to be mentioned that earlier Monu Kumar, applicant in CM-240-CWP-2015, had filed CWP-17372-2014 wherein operation of the video parlour was stayed on 28.08.2014. The said stay was vacated vide order dated 05.09.2014 (Annexure P-18). Thereafter, another recourse has been adopted which is tell-tale and as to how the authorities have looked at the documents and passed the orders. Apparently, the Deputy Commissioner had granted the licence by recording the fact that 'no objection certificates' had been issued by the

CWP No. 21933-2014

authorities concerned whereas subsequently under his orders, report has been sought from the Municipal Council, Abohar whereby completion certificate has been withdrawn without issuing any show cause notice to the petitioner. The bare minimum principles of natural justice have not been followed. Furthermore, it needs to be mentioned that even in the letter (Annexure P-20) issued by the Municipal Council, it is not mentioned that how much and to what extent violation has been carried out by the petitioner. The letters (Annexures P-19 and P-20) appear to be vague. Vide letter dated 24.09.2014 (Annexure P-19), it has been mentioned that space on the sides of building was not required to be left vacant because this is not a multiplex and due to the scheduled road in front building, 5 metres space has been left vacant and for the purpose of parking the entire basement has been left vacant. Since the Deputy Commissioner, Fazilka has relied upon the letter/notice (Annexure P-19) which is vague and does not mention any detail with regard to violation allegedly made by the petitioner.

In view of above, instant petition is allowed and the letters (Annexures P-19 to 21) are set aside being not sustainable in the eyes of law.

However, it will not prevent the Municipal Council, Abohar as well as the authorities concerned from proceeding in accordance with law after affording opportunity of hearing to the petitioner.

CM-240-CWP-2015 also stands disposed of.

13.01.2015
parveen kumar

(Paramjeet Singh)
Judge