

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

CWP No.22610 of 2014

Date of decision:4.2.2015

Narender Kumar and another **....Petitioners**

VERSUS

State of Punjab and another **.....Respondents**

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Dhivya Jerath, Advocate for the petitioners.

Mr. P.S. Bajwa, Additional Advocate General, Punjab
for respondent No.1.

Mr. Vinod Arya, Advocate for
Mr. Mukesh Kaushik, Advocate
for respondent No.2.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the notice dated 16.10.2014 whereby the petitioner was given liberty to remove violations in terms of the order passed by this Court. It was proposed that the employees of the Municipal Council will do the needful at the cost of the petitioner, if the petitioner fails to do so.

It appears that the occupiers of Gobindgarh-Amloh-Nabha-Bhawanigarh Scheduled Road including the petitioner No.1 filed writ petitions before this Court. The writ petition filed by petitioner No.1 bearing CWP No.7635 of 2012 titled Narinder Kumar and others v. State of Punjab and another was disposed of by this Court on 26.09.2012 with liberty to the petitioner No.1 to file reply to the show-cause notice and thereafter final orders were to be passed giving appropriate opportunity of hearing. It is thereafter an order was

passed on 05.06.2013 whereby the representation of the petitioner No.1 was rejected on the ground that the request of the petitioner for construction of the building stands declined by the Municipal Council on 18.08.2009 for the reason that the plot is within 33 feet of the scheduled road. It was found that the petitioner No.1 has raised construction even though the building plans were rejected and that the building constructed falls within the restrictions applicable to the Gobindgarh-Amloh-Nabha-Bhawanigarh Scheduled Road. The petitioners did not challenge the said order passed by the Executive Officer, Municipal Council, Amloh, but the petitioners have invoked the writ jurisdiction of this Court after the second notice was issued on 16.10.2014.

A perusal of the writ petition shows that the petitioner No.1 has purchased the property in question vide sale deed dated 20.05.2009 and the petitioner No.2 purchased the same on 14.07.2005. The land in question is a part of the Scheduled Road and therefore, no building can be erected or re-erected except with the permission of the Competent Authority under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 since repealed by The Punjab Regional and Town Planning and Development Act, 1995. In pursuance of the earlier order passed by this Court, an opportunity of hearing was granted and the order of demolition passed. The petitioner invoked the writ jurisdiction of this Court again, though, the order of demolition dated 05.06.2013 has been allowed to become final.

Learned counsel for the petitioners has vehemently argued that the respondents have adopted the policy of pick and

choose by choosing certain constructions while retaining the others. Though, we do not appreciate the action of the Municipal Council in choosing certain constructions and not taking action against the others but that by itself will not give any cause to the petitioner to protect the constructions already raised. The constructions raised are in violation of the statutory restrictions and have been rightly ordered to be demolished.

Consequently, we do not find any merit in the present writ petition. The same is dismissed.

However, the Municipal Council is directed to act uniformly against all unauthorized constructions raised on Gobindgarh-Amloh-Nabha-Bhawanigarh Scheduled Road in accordance with law.

(HEMANT GUPTA)
JUDGE

FEBRUARY 4, 2015
‘D. Gulati’

(HARI PAL VERMA)
JUDGE