

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

(1) CWP No. 25891 of 2013 (O&M)
Date of decision: January 6, 2015

M/s Rolex Fuel Pipes

...Petitioner

Versus

State of Punjab and others

...Respondents

(2) CM No. 7075 of 2014 and
CWP No. 25946 of 2013 (O&M)

M/s A.S. Steel Limited

...Petitioner

Versus

State of Punjab and others

...Respondents

(3) CWP No. 26834 of 2013 (O&M)

M/s Bhalla Ball Bearing Industries and another

...Petitioners

Versus

State of Punjab and others

...Respondents

(4) COCP No. 2545 of 2013 (O&M)

Vidya Bhullar and another

...Petitioners

Versus

Sh. Karan Avtar Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

- 1. Whether Reporters of 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. Rahul Sharma-I, Advocate,
for the petitioners in CWP Nos. 25891 and 25946 of 2013.

Mr. CL Verma, Advocate,
for the petitioners in CWP No. 26834 of 2013.

Mr. RL Sharma, Advocate,
for the petitioners in COCP No. 2545 of 2013.

Mr. Ranbir Singh Pathania, DAG, Punjab.

Mr. Alok Jain, Advocate,
for respondents No. 2 and 4 in CWP No. 26834, 25891
and 25981 of 2013.

Mr. Sanjeev Sharma, Advocate,
for respondent No.3.

Mr. RL Sharma, Advocate,
for respondents No. 6 and 7 in CWP No. 25946 of 2013.

Mr. Sandeep Khunger, Advocate,
for respondents No. 5 and 6 in COCP No. 2545 of 2013.

K. KANNAN, J. (Oral)

1. All the writ petitions and the contempt petition are taken together since it is the petition for contempt of the order dated 13.8.2010 passed in CWP No. 20792 of 2006 that gave rise to the other writ petitions as well.

2. CWP No. 20792 of 2006 was at the instance of M/s Bhalla Ball Bearing Industries and others and there were other connected writ petitions as well. The order passed by the learned Single Judge of this court was with reference to the respective petitioners, who were having their industries in a place which had been notified as a residential zone. The Court, after elaborate judgment, held that the petitioners would run the industries upto a further period of six months before when they were required to shift from the existing area to industrial area in Town Planning Scheme No. 5, Part-II, Phagwara. This time limit, the court observed, would not be extended under any circumstances. This order had been a subject of challenge in LPA No. 45 of 2011 and when the writ appeal was pending the Government of Punjab had issued a notification on 30.7.2012 notifying a scheme to offer

industrial plots to existing units. All the petitioners came by fresh allotments and the LPA was disposed of as having become infructuous in light of the notification issued on 30.7.2012. While the learned Single Judge had granted time of six months, that period of six months became irrelevant in light of the notification allowing industrial plots for the existing units. The manner of disposal of the appeal would itself lend support to the plea that the respective petitioners were entitled to take advantage of the conditions mentioned in the letters of allotment. As it turned out, the allotments were made on 15.10.2013 and it obligated the allottees to ensure that shifting of the activities/business is to be made within a period of “one year from the date of allotment”, as per clause 7. The contempt plea was founded on the alleged breach of the respective petitioners in not having shifted the premises within a period of one year. After the contempt petition was filed, the impugned orders were passed respectively by the Electricity Corporation and the State disconnecting the electricity supply and withdrawing the SSI registration.

3. The petitioners' contention is that the initial period of six months granted by the High Court in CWP No. 20792 of 2006 and the connected case could not operate since the order got merged with the order of the Division Bench which treated the appeal itself as having become infructuous by referring to the notification issued by the Government on 30.7.2012 that allowed for one year period for shifting the industries/business. I find that there is no order of the High Court which is in breach and after the notification was issued, which was taken note of by the Division Bench, the rights of the parties were re-adjusted as per the terms of the allotment and the period prescribed thereunder. The petitioners

could not have been taken as having committed any disobedience of the order already issued in CWP No. 20792 of 2006. The petition for contempt was misconceived and I dismiss the same.

4. An application (CM No. 7075 of 2014 in CWP No. 25946 of 2013) has been filed at the instance of one Vidya Bhullar and Bhupinder Singh for impleadment on the ground that even the contempt action was at their instance and they are interested in prosecution of the case. The counsel for the petitioner (in CWP No. 25946 of 2013) has no objection to the impleadment and the applicants are impleaded as respondents No. 6 and 7.

5. Learned counsel appearing on behalf of respondents No. 6 and 7 in CWP No. 25946 of 2013 would state that they have secured a decree in civil suit No. 71/99 against some of the petitioners for permanent injunction restraining the industries from operating the residential zone. The counsel would argue that since the decree has also been issued, they cannot continue their business any longer. The counsel appearing on behalf of the petitioner in CWP No. 26834 of 2013 would contend that there is an appeal against the said decree and after its dismissal by the first appellate court, second appeal has been filed and pending before this court. It must be remembered that the contempt action is not on the basis of the decree obtained in the civil court, but, on the other hand, on the alleged disobedience of the order passed by this court in CWP No. 20792 of 2006 and other cases. I have already held that there is no basis for contempt against the said judgment in the preceding paragraph. The case has only now to be seen whether there is any justification for disconnecting the electricity connection and withdrawal of the SSI registration.

6. The disconnection issued by the Punjab State Power Corporation which is subject of challenge is in purported compliance of order of this court. Though there is no reference to the nature of the order, the allusion surely is to the order passed in CWP No. 20792 of 2006. I have already held that there was no scope for contempt against the said judgment. The said reasoning will apply a fortiori to discredit even the impugned order of disconnection. For the matter of record, it must be noticed that through an interim direction, electricity connection was restored. Even apart from the fact that the basis for disconnection itself became unavailable for the Corporation, the petitioners' have a second string to the bow as it were, namely that the period of one year for shifting the business was to commence from the date of allotment. The document dated 15.10.2013 itself reads by way of a note at the end of the allotment letter that in case of basic development works in the pocket where the plot fell were completed at a subsequent stage, the date of allotment for all intents and purposes would be effective from the date of completion of the basic development instead from the date of issue of allotment letter. The petitioners would contend that the basic development works have not been completed, as per information elicited under the RTI which stated that the work of construction of roads have been given to the agency through tenders and they have been constructed and metalled, except for certain roads. This information was secured on 16.7.2014 and the work, according to them, have not yet completed. The Corporation, however, has a different version that all the works were completed on 20.1.2014. I take it, therefore, that the petitioners cannot have a case that all the development works have not taken place but even if I take the said date given by the Corporation as

the date when development works had been completed, then the date when the allotment could be said to be made in terms of the note 6, must refer to shall be 20.1.2014.

7. If one year is to be applied to the date of allotment in the manner that has to be understood, where reference to note 6, then any action for disconnection of electricity or withdrawal of SSI will not arise on the reasons set out in the respective order. Any non-fulfillment of the terms of allotment entailing cancellation of allotment, if at all, can take place only subsequent to 20.1.2015, if the petitioners do not shift by that period. The impugned notices causing disconnection of the electricity or withdrawal of SSI cannot be sustained. I will not persage as to the consequences that may befall for the petitioners who do not shift or complete constructions. The terms of allotment will govern the rights of the parties. As of now I must observe that the impugned notices cannot be sustained and they are quashed.

8. The writ petitions are allowed and the contempt petition is dismissed in the manner, already referred to above.

January 6, 2015
prem

(K.KANNAN)
JUDGE