

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1571 of 2014
Date of Decision:- 14.10.2015.

Ranjit Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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. Rakesh Gupta, Advocate for the appellant.

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Mr. Jasjeet S. Dhaliwal, Advocate for
Mr. H.S. Brar, Advocate for respondent No.2.

SURYA KANT, J. (ORAL)

1.) This Letters patent appeal is directed against the order dated 04.09.2014 whereby learned Single Judge has dismissed the appellant's writ petition.

2.) The dispute that arises for consideration is whether the Municipal Authorities are within their power to demolish the *Dhaba* (restaurant) constructed on the roadside which is allegedly being run by the appellant on Patiala-Sangrur-Samana road from last 60 years?

3.) The undisputed facts are that the land where the appellant has

set up the *Dhaba* is within municipal limit. That *Dhaba* is claimed to be located on a Schedule Road.

4.) Since this Court in exercise of PIL jurisdiction has directed vide order dated 9.7.2013 passed in CWP No.4559 of 2007 to remove the *Dhabas* which were set up unauthorizedly without obtaining Change of Land Use or in violation of the Municipal Laws etc., action was sought to be taken against the appellant also which prompted him to approach this Court.

5.) The appellant claims that he has been granted a licence to run *Dhaba* on 7.7.1975 and that eviction petition filed against him was also dismissed.

6.) There is indeed no doubt that the appellant's *Dhaba* cannot be demolished without observing the principles of natural justice and until it is found being run unauthorizedly or illegally. Such a finding can be given only after the appellant is served with a show cause notice; his reply is taken into consideration and an opportunity of hearing is afforded.

7.) There can, however, be no exception and the directions dated 9.7.2013 issued by this Court in PIL jurisdiction shall have to be complied with. In doing so, the orders passed in the year 1994 dismissing eviction petitions would also become meaningless and redundant.

8.) We, thus, dispose of this appeal by modifying the order passed by learned Single Judge in the following terms:-

- (i) The Municipal Corporation, Patiala, respondent No.3 or any other State Government Authority whosoever is competent is directed to issue a self-explanatory show cause notice to the appellant, inter alia, pointing out as to how and why the

Dhaba run by him is unauthorized or illegal?

(ii) On receipt of such show cause notice, the appellant shall submit his reply within a period of two weeks along with relevant documents and the permission, if any, obtained by him from the Authorities.

(iii) The Competent Authority shall also give an opportunity of hearing to the appellant within two weeks thereafter.

(iv) If it is found that the Dhaba set up by the appellant is lawful and does not violate any provision of law or Municipal Bye-laws or any Scheduled Road Act, no further action will be required and/or be taken.

9.) However, if the Dhaba is found to have been established in violation of any such laws, a reasoned order shall be passed giving one month time to the appellant to wind up the same.

10.) The appellant shall be entitled to avail the remedy of appeal under the Act, if so available.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

October 14, 2015.

sandeep sethi