

CWP No.15210 of 2016

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

**CWP No.15210 of 2016
Date of decision:01.08.2016**

Gurnam Singh

...Petitioner

Versus

Municipal Corporation Chandigarh and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Atul Sharma, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner is the licensee of the parking of Sector 35-C, Chandigarh, possession of which was allegedly taken on 04.06.2016 at 8.00 A.M. for six months. The grievance of the petitioner is that respondent No.2 served a show cause notice upon him with an allegation that the petitioner has been overcharging the commuters for the use of parking area. The petitioner has submitted a reply to the show cause notice dated 14.07.2016 and, thereafter, it is alleged that the impugned order has been passed on 18.07.2016, terminating the license and directing him to hand over possession either on 02.08.2016 (after closing time of parking area) or on 03.08.2016 (before the starting time of parking area) to the concerned area Sub Inspector (Enforcement).

Counsel for the petitioner has submitted that the show cause notice was vague and opportunity of hearing was not granted to him. It is

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also submitted that the petitioner has been vexed twice as he has been earlier penalized with fine.

I have heard learned counsel for the petitioner and perused the available record from which it is found that Clause 37 of the Terms and Conditions of the Paid Parking area deals with termination of lease in which it is provided that *“if the licensor wants to terminate the license deed before the expiry date then the licensor will give at least 15 days notice. In an event of making payment as above, the Licensor will be entitled to take over possession within 24 hours thereafter”*. Clause 38 deals with arbitration, which read as under:-

“38. **Arbitration:-** All disputes and differences arising out or in any way touching upon this license deed, whatsoever, shall be referred to the sole arbitration of the Commissioner, Municipal Corporation, Chandigarh or any officer deputed by him to act as arbitrator. The decision of the arbitrator shall be final and binding on both the parties. The provisions of Arbitration and Conciliation Act, 1996, and Rules framed there under and any statutory modification/amendments thereof for the time being in force shall apply for such arbitration.

It shall be an essential term of this contract that in order to avoid frivolous claims the party invoking arbitrator shall specify the disputes based on facts and calculations stating the amount claimed under each claim and shall furnish a “deposit-at-call” for ten per cent of the amount claimed, in a scheduled bank in the name of Arbitrator, by his official designation who shall keep the amount in deposit till the announcement of the award. In the event of an award in favour of the claimant, the deposit shall be refunded to him in proportion to the amount awarded with respect to the amount claimed and the balance if any shall be forfeited and paid to the other party.”

Insofar as the previous penalties are concerned, those were

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imposed from time to time for the illegality committed by the petitioner but ultimately it has been found that the petitioner is habitual and incorrigible in over-charging the commuters for the use of parking area and, thus, a show cause notice was given to the petitioner in which the reason for termination of his license was specifically mentioned and after the reply was received, opportunity of hearing was given by another notice, which is attached by the petitioner as Annexure P-7 with the petition in which date, time and place was specifically mentioned and after giving personal hearing to the petitioner, the impugned order was passed, in which the following observations have been made:-

“AND WHEREAS, the undersigned had personally checked the paid parking area of Sector 35-C, Chandigarh on 06.07.2016 & 07.07.2016 and on both the occasions, various vehicles were found being overcharged.”

There is no allegation made by the petitioner against respondent No.2 of personal bias nor he has been arrayed as respondent in his personal capacity, therefore, the finding recorded in the impugned order on the basis of his personal checking cannot be faulted and hence, there is hardly any reason for this Court to interfere in this petition.

Dismissed.

August 01, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No