IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18684 of 2016 (O & M)
Date of decision: 08.09.2016

Gaurav Jain

....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MS. JUSTICE LISA GILL

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

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S.S.SARON,J.

The Civil Writ Petition has been filed seeking quashing of notification dated 27.08.2015 (Annexure P-4) whereby Municipal Council of Nakodar has been upgraded from Class B to Class A.

According to the petitioner, this has resulted in the increase of taxes on its inhabitants, which is double the amount that was earlier being paid. Besides, it is submitted that it is obligatory for the Municipal Council, Nakodar to provide civic amenities as detailed in the representations dated 10.10.2015 (Annexure P-5) and 11.07.2016 (Annexure P-6) made by the petitioner.

The petitioner submits that he is a public spirited social activist and has genuine grievances against the up-gradation of Municipal Council, Nakodar from Class 'B' to Class 'A' and thereby unnecessarily imposing taxes upon the inhabitants, which is now double of what was earlier being paid and that too without providing the amenities. The impugned notification dated 27.08.2015 (Annexure P-4) reads as under:

> *"GOVERNMENT OF PUNJAB*
> *DEPARTMENT OF LOCAL GOVERNMENT*
> *(LOCAL GOVERNMENT ITI BRANCH)*
> *NOTIFICATION*
>
> *No.10.8.2015-3LG3/G3/1301 Dated, Chandigarh 27.8.2015*
>
> *In exercise of the powers conferred by sub Section (2) of Section 4 of the Punjab Municipal Act, 1911, the Governor of Punjab is pleased to declare and classify the Nagar Council, Nakodar as Class-I, Municipal council with effect from the date of publication of this notification in the official gazette.*
>
> *Dated, Chandigarh*
> *20.08.2015 Sd/-*
> *Ashok Kumar Gupta, IAS*
> *Secretary to Government of Punjab*
> *Department of Local Government"*

The petitioner has been supplied information under the Right to Information Act, 2005 by the Municipal Council, Nakodar-respondent No.2 vide letter dated 08.07.2016 (Annexure P-8). It is inter alia stated that the Municipal Council, Nakodar passed a resolution to upgrade Nakodar as Class 'A'. It is submitted that Municipal Council is a democratically elected body. Besides, no public proclamation was made for increasing taxes, no meeting was held for increasing taxes and Municipal Council, Nakodar started recovering taxes after its notification as 'A' Class Municipality.

Part IX-A of the Constitution of India relates to, 'The Municipality'. Part IX-A has been added to the Constitution by the Constitution (Seventy-Fourth Amendment) Act, 1992. The same was added as in many States the Local Bodies have become weak and ineffective for various reasons. The Urban Local Bodies were not able to perform effectively as vibrant democratic units of self government. In view of these and other inadequacy, the provisions relating to Urban Local Bodies were incorporated in the Constitution so as to put on a firmer footing the relations between the State Government and the Urban Local Bodies with respect to various functions including the functions and taxation powers as also other functions. The Municipal Council, Nakodar being a democratically elected body has power to seek up-gradation of its municipality, which has been accepted by the State Government in pursuance to its impugned notification dated 27.08.2015 (Annexure P-4). There would be no justification in invalidating the same merely on the asking of an individual-petitioner and that too on the specious ground that the taxation structure is stated to have been doubled. No material, however, has been placed on record to show that as to how the taxation has increased. Two receipts Annexure P-7 dated 30.01.2015 and 21.09.2015 have been placed on record. The receipt dated 30.01.2015 relates to the year 2014-15 of one Jugal Kishore Kohli in which an amount of Rs.764/- has been paid as tax. The other receipt dated 21.09.2015 of Jugal Kishore relates to the year 2015-16 in which an amount of Rs.1728/- has been paid as tax. However, nothing has been shown as to how the increased taxes that have been paid are on account of the up-gradation of the

Municipal Council.

The other grievance of the petitioner is that adequate civic facilities have not been provided. In this regard, the petitioner has submitted a representations; Annexure P-5 dated 10.10.2015 addressed to the Principal Secretary, Local Bodies, Government of Punjab, Chandigarh; Annexure P-6 dated 11.07.2016 addressed to the Chief Minister, Government of Punjab, Chandigarh; the Chief Secretary, Government of Punjab, Chandigarh; The Secretary, Local bodies, Government of Punjab, Chandigarh; Principal Secretary to Chief Minister Punjab, Chandigarh; The Deputy Commissioner, Jalandhar. However, no representation is shown to have been submitted to the Municipal Council which is to provide the necessary facilities and is an independent body.

In the circumstances, we are of the view that the impugned notification challenged by the petitioner which has been passed on the decision taken by the Municipal Council, Nakodar-respondent No.2 cannot be invalidated on the basis of an individual who has filed the petition in the nature of public interest.

In the circumstances, we find no merit in the petition for quashing the notification. The petitioner may, however, approach the Municipal Council, Nakodar for providing necessary civic amenities.

At this stage, learned counsel for the petitioner submits that he may be allowed to withdraw the present writ petition so as to pursue his case for providing civic amenities with the Municipal Council, Nakodar.

The petition is accordingly dismissed as withdrawn with liberty to the petitioner to pursue his case for civic amenities with the Municipal Council, Nakodar.

The question of locus standi of the petitioner to file a Public Interest Litigation is kept open.

(S.S. SARON)
JUDGE

(LISA GILL)
JUDGE

08.09.2016
Sheetal

Note:

1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : No