

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 27.09.2016

1. CWP No.25261 of 2013

M/s Unitech Business Parks Ltd.

... Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. and others

... Respondents

2. CWP No.12665 of 2014

M/s Unitech Hospitality Service Ltd.

... Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate
for the petitioner(s).

Mr. P.S. Poonia, Advocate
for the respondents.

RAMESHWAR SINGH MALIK, J. (ORAL)

These two identical writ petitions bearing CWP Nos.25261 of 2013 and 12665 of 2014, are being disposed of vide this common order, as both these writ petitions are arising out of similar facts and raise same issues for consideration of this Court. However, for the facility of reference, facts are being referred from CWP No.25261 of 2013 (M/s Unitech Business Parks Ltd. Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and others).

Feeling aggrieved against the unilateral action taken by the

respondent authorities by way of impugned communication dated 24.10.2013 (Annexure P-7) in CWP No.25261 of 2013 and impugned communication dated 24.06.2014 (Annexure P-3) in CWP No.12665 of 2014, petitioners have approached this Court by way of these two identical writ petitions, seeking a writ in the nature of certiorari, for quashing the impugned orders.

Notice of motion was issued and in compliance thereto, written statements have been filed by the respondents in both the writ petitions.

Heard learned counsel for the parties.

During the course of hearing, it has transpired that the impugned orders, in both these writ petitions, were issued by the respondent authorities without first issuing any show cause notice to the petitioners, despite the fact that a huge financial liability was being put on the petitioners and the change of tariff as well. In such a situation, it was least expected from the respondent authorities to issue a show cause notice to the petitioners, before issuing the impugned communications.

When confronted with the abovesaid undisputed fact situation obtaining on the record of both these cases, learned counsel for the respondents could not controvert the abovesaid factual position and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that since the respondent authorities have glaringly violated the basic principles of natural justice, the impugned orders cannot be sustained.

No other argument was raised.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned orders, in both these cases, have been found suffering

from patent illegality, having been passed in violation of basic principles of natural justice, condemning the petitioners unheard. Accordingly, the impugned orders, in both these writ petitions, are hereby set aside.

However, liberty is granted to the respondent authorities to proceed against the petitioners in accordance with law. Let a show cause notice be issued to the petitioners and after receiving their reply to the show cause notice and granting an opportunity of being heard, let the appropriate orders be passed afresh, strictly in accordance with law.

With the abovesaid observations made and directions issued, both these writ petitions stand allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

27.09.2016

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No