

CWP No. 24025 of 2016 (O&M)

Date of decision : November 21, 2016

SATISH KUMAR

.....Petitioner

Versus

STATE OF HARYANA & OTHERS

....Respondents

**CORAM:- HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. P.K. Ganga, Advocate
for the petitioner.

S.S. SARON, J.

The petition has been filed for setting aside the impugned order dated 20.10.2016 (Annexure P-3) passed by the respondent No. 2 - Haryana State Pollution Control Board, Panchkula ('the Board' - for short) in terms of which the petitioner has been ordered to close down the operation of his unit/shop. A further prayer has been made for directing the respondents not to interfere in the small shop/unit run by the petitioner and allow him to continue with his business.

The respondent No.2 - Board served a show cause notice dated 28.07.2016 (Annexure P-1) on the petitioner in terms of Sections 21 and 22

of the Air (Prevention and Control of Pollution) Act, 1981 ('Air Act' - for

short) mentioning therein that the unit/shop of the petitioner was visited and inspected by a field officer on 20.7.2016. The deficiencies and non-compliances on the part of the petitioner that were observed have been mentioned. In the show cause notice, it is stated that the unit/shop of the petitioner had been established and was in operation in gross violation of the Air Act and the Notification of the Government for Consent Management as also the Notification for installation and operation of carpentry and wooden furniture manufacturing unit/shop. In view of the above, fifteen days show cause notice was issued as to why closure action be not initiated against the unit/shop of the petitioner in terms of Section 31-A of the Air Act.

The petitioner filed his reply dated 17.08.2016 (Annexure P-2) to the said show cause notice (Annexure P1). The respondent No. 2 - Board thereafter passed the impugned order dated 18/20.10.2016 (Annexure P-3). The unit of the petitioner was ordered to be closed under Section 31-A of the Air Act.

The petitioner has directly approached this Court without availing the remedy of an appeal which is provided for in terms of Section 31 of the Air Act. Besides, in Para 15 of the petition it is stated by the petitioner that he is left with no other remedy of appeal or revision except to approach this Court by way of filing the present petition and invoking the extra-ordinary jurisdiction of this Court. However, the petitioner has the remedy of an appeal against the order of the Board before the State Government.

Learned counsel for the petitioner submits that, for the present, he may be allowed to withdraw the writ petition so as to avail alternate remedy of appeal and thereafter file a fresh petition, if necessary.

In the circumstances, the writ petition is dismissed as withdrawn with liberty to file a fresh one, if necessary.

(S.S. Saron)
Judge

November 21, 2016
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : No