

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

CWP No.27397 of 2015
Date of Decision:-06.01.2016

M/s Soma New Towns Pvt. Ltd.

..... Petitioner

Vs.

State of Haryana and others

..... Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Manjeet Singh, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the letter dated 15.11.2011 (Annexure P-19), *show cause notice* dated 17.12.2015 (Annexure P-32) and is aggrieved against the action of the respondents in demanding a sum of ₹79.91 lacs from them.

In short, the petitioner-company had applied for grant of license under the Haryana Development and Regulation of Urban Areas Act, 1975 and Haryana Development and Regulation of Urban Areas Rules, 1976, for setting up a residential colony on the land measuring 54.775 acres, falling in the revenue estate of village Basti Bhiwan, Sector 4, Fatehabad, District Fatehabad. The petitioner was granted license No.202 of 2008 on 13.12.2008. Its land was divided by Fatehabad Minor Distributory and to connect both the pieces of land, it was required to construct two bridges/culverts on the said minor for the use of residents of the colony.

Learned counsel for the petitioner has submitted that approval for construction of bridge was granted to the petitioner by the Deputy Commissioner, Fatehabad (Annexure P-7). On the basis thereof, two bridges/culverts were constructed by the month of October 2009. It is pertinent to mention that in the meeting of the Board of Chief Engineer held on 22.6.2011, a draft policy was approved for laying down the guidelines for considering the proposals of private/government/public sector bodies/undertakings for allowing construction of road bridges, roads and laying of various utility lines (pipelines/cables etc.) across/along the canals and drains of Haryana Irrigation Department. According to the petitioner, the respondents had asked for a sum of ₹79.91 lacs vide letter dated 15.11.2011 (Annexure P-19) and ultimately a *show cause notice* was given on 17.12.2015 (Annexure P-32), which has been issued by the office of Directorate of Town and Country Planning, Haryana on the pretext that the petitioner has not obtained NOC from the Irrigation Department regarding construction of culverts on Fatehabad Distributory and had encroached upon the land of the Irrigation Department. The petitioner was thus directed to pay the loss caused to the Government to the tune of ₹79.91 lacs towards supervision charges etc. within 15 days otherwise the amount was to be recovered from the bank guarantee available with the department against the licenses granted to the company/subsidiary company. The petitioner has allegedly filed a reply dated 20.12.2015 to the said *show cause notice* to the Director General, Town and Country Planning, Haryana but so far no action has been taken by the said department as neither the amount has been deducted from the bank

guarantee nor their reply has been taken into consideration to pass a final order.

I have heard learned counsel for the petitioner and after examining the available record, am of the considered opinion that the issues involved in this case are still in the liquid stage as they are yet to be decided, one way or the other, by the authority, who had given the *show cause notice* on 17.12.2015 (Annexure P-32).

Thus, in these facts and circumstances, the present petition is hereby disposed of directing the Director General, Town and Country Planning, Haryana to take into consideration reply dated 20.12.2015 (Annexure P-33) filed to the *show cause notice* dated 17.12.2015 (Annexure P-32) and pass an appropriate order, in accordance with law. The said exercise shall be completed within a week from the date of receipt of certified copy of this order. Till then the recovery of the amount shall remain in abeyance.

A copy of this order be given to counsel for the petitioner under the signature of Special Secretary of this Court for onward submissions to the Director General, Town and Country Planning, Haryana, without wasting any time.

06.01.2016

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**