

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

CWP No.9057 of 2016

Date of decision: 10.5.2016

Aseem Takyar

..... Petitioner

VERSUS

State of Haryana and ors.

..... Respondents

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
 HON'BLE MR. JUSTICE GURMIT RAM**

**Present: Mr. Johan Kumar, Advocate
 for the petitioner.**

S.S. SARON, J.

The petition has been filed for issuing suitable directions to respondents not to transfer the management/control of Sectors of the Haryana Urban Development Authority ('HUDA' – for short) to the Municipal Corporations at this stage without strengthening the Municipal Corporation, Gurgaon. A further prayer has been made for directing the respondents to implement the 73rd and 74th amendments of the Constitution of India in its true spirit and diktats of the Constitution.

The petition it is submitted has been filed as a Public Interest Litigation for the benefit of the public at large. The petitioner is stated to be a public spirited person and a RTI activist. He has filed numerous petitions in this regard. His income tax return verification form for the assessment year 2014-15 is attached as Annexure P-1. The said form as placed on record is dim and illegible.

According to the petitioner, the Government of Haryana has

taken a decision without any notification in this regard to transfer the Developed HUDA Sectors to Urban Local Bodies by 30.4.2016. It is submitted that there is no indication that such Municipalities/Municipal Corporations have prepared a plan to equip itself. According to the petitioner, the present Urban Local Bodies are not having their own staff, many posts are vacant, besides, they do not have quality control wing, funds etc. for the management of these Sectors which are to be transferred. A copy of the decision taken in this regard are placed on record as Annexures P-2 and P3.

Learned counsel for the petitioner has referred to the information dated 5.8.2015 (Annexure P-5) that has been obtained under the Right to Information Act. A perusal of the same shows that number of posts out of sanctioned strength of posts with Municipal Corporation, Gurgaon are lying vacant. Therefore, according to the petitioner, the Municipal Corporation, Gurgaon would not be able to cope with the transfer of the HUDA Sectors.

During the course of hearing, we are asked the learned counsel for the petitioner to point out the infringement or infraction of any statutory rules which prohibits such transfers. He has not been able to point out any such rule although he referred to Article 243 of the Constitution of India. In fact the prayer of the petitioner is for directing the respondents to implement 73rd and 74th amendments of the Constitution of India.

Part IX of the Constitution relating to the 'Panchayats' has been added by 73rd Amendment of the Constitution of India. Part IX-A of the Constitution relating to the 'Municipalities' has been added by 74th

Amendment of the Constitution. The object of the said amendments is to strengthen the local bodies like 'Panchayats' and 'Municipalities'. Therefore, with the Sectors from HUDA being transferred to the Municipal Corporations, we find that the same is in consonance with the spirit of the 74th Amendment of Constitution. The steps that are being taken by the respondents it can be said are to strengthen the municipalities.

In the circumstances, there is no merit in the petition and the same is accordingly dismissed.

(S.S. SARON)
JUDGE

(GURMIT RAM)
JUDGE

10.5.2016
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