

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

CWP No.12417 of 2017 (O&M)

Date of Decision: 29th September, 2017

Bubli Brar

. . . . Petitioner

Vs.

Union of India and another

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Navkiran Singh, Advocate,
for the petitioner.

Mr.Satya Pal Jain, Sr. Advocate, with
Mr.Sudhir Nain, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J. (ORAL)

CM No.12921 of 2017

This application is filed to place on record the written statement
on behalf of respondents No.1 and 2.

Application is allowed as prayed for.

CWP No.12417 of 2017

The petitioner has challenged the validity of the notification
No.3/2015-2020 dated 25.4.2016 issued by the Director General of Foreign
Trade regarding "Introduction of policy condition on import of dogs in Chapter
01 of ITC (HS), 2012 – Schedule-1 (Import Policy)" as illegal and
unconstitutional. The said notification dated 25.4.2016 read as under: -

*"Subject: Introduction of policy conditions
on import of dogs in Chapter 01 of ITC (HS),
2012 – Schedule-1 (Import Policy).*

S.O. (E): In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 20.1 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby introduces policy conditions on import of dogs under Chapter 01 of ITC (HS), 2012 - Schedule -1 (Import Policy) as under: -

(7) Import of dogs is allowed only for the following specific purposes: -

- i. Pet dog with valid pet book and relevant records/documents in the name of importer.*
- ii. Dogs imported by the R&D Organisations for conducting research with the recommendation of CPCSEA.*
- iii. For the internal security by Defence and Police Force.*

(8) Import of commercial dogs for breeding or any other commercial activities other than the purposes mentioned above is not permitted.

2. Effect of this Notification: Import of commercial dogs for breeding or any other commercial activities is not permitted.”

The petitioner submits that she is a dog lover and has four dogs as pet. She had a valid import license bearing No.2250000253 dated 9.12.2015, valid for 18 months, which has expired during the pendency of this petition. The petitioner is aggrieved that the respondents have put a ban on the import of dogs in the garb of aforesaid notification and has specifically referred to Clause 8 of the notification in which it is provided that *“import of commercial dogs for breeding or any other commercial activities other than the purposes mentioned above is not permitted”*. It is submitted that the petitioner has not been indulging in commercial activities of imported dogs and is rather required the imported dog(s) for her personal use being a dog lover.

After notice, the respondents have filed their reply in which it is averred that *“it may be noted that the notification nowhere places restrictions on import of pet dogs and allows such imports against an import authorization with a valid pet book and relevant records/documents in the name of the importer as per Policy Condition No.7(i) of the said notification”*. It is further averred therein that *“however, it is pertinent to mention that the petitioner had approached the Hon’ble Court on 26.5.2017 without first approaching the answering respondent for the redressal of its grievance. No formal application as per laid down procedures has been made by the petitioner to the respondent or is pending with the respondent for obtaining an Import Authorisation for dogs”*.

The sum and substances of the arguments of the counsel for the respondents is that if the petitioner is not requiring the imported dog(s) for the purpose of commercial activity and the dog to be imported is a pet dog then there is no restriction and has referred to Clause 7(i) of the notification in

which it is mentioned that the pet dog with valid pet book and relevant records/documents in the name of the importer is allowed.

I have heard learned counsel for the parties and examined the record.

Since the case of the petitioner herself is that she does not want to import dog(s) for the commercial purpose and only requires to import the dog(s) as pet dog(s), therefore, I do not find any kind of restriction imposed in the impugned notification especially in view of Clause 7(i) of the notification. The petitioner, if so desires, in order to import pet dog(s) with valid pet book and relevant records or documents executed in her name, may apply to the competent authority under the provisions of the Act and the Policy. In case such an application is filed with valid import license, the competent authority shall consider the application of the petitioner and decide the same by passing a speaking order within one month and if so required by giving an opportunity of hearing also.

Since, the import license of the petitioner is stated to have expired, therefore, the petitioner may, if so advised, apply for the import license for the pet dog(s), which shall be issued to the petitioner, in accordance with law.

In view of the above, the present petition is hereby disposed of.

29th SEPTEMBER, 2017
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No