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

Date of decision : 07.02.2017

1.

CWP-22713-2013 (O&M)

Jagdish Lal and others

... Petitioners

Versus

State of Haryana and others

... Respondents

2.

CWP-28449-2013 (O&M)

Prem Nath and another

... Petitioners

Versus

State of Haryana and others

... Respondents

3.

CWP-12532-2013 (O&M)

Lalit Kumar Khosla

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Manohar Lal, Advocate
for the petitioner(s) in CWP-22713-2013 & CWP-12532-2013.

Mr. Aman Pal, Advocate
for the petitioner(s) in CWP-28449-2013.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Mr. Naveen S. Bhardwaj, Advocate
for respondent Nos.3 & 5 in CWP-22713-2013 and
for respondent Nos.3 to 5 in CWP-28449-2013
for respondent No.2 in CWP-12532-2013.

AMIT RAWAL, J. (ORAL)

CM-13721-2015 IN CWP-28449-2013

Prayer in this application is for impleading the Director, Urban Local Bodies, Haryana, Bays Nos.11-14, Sector-4, Panchkula as respondent No.4 in the aforementioned writ petition.

Learned counsel for the applicant/petitioner(s) seeks liberty of this Court to withdraw the present application.

Ordered accordingly.

MAIN CASES

This order of mine shall dispose of three writ petitions bearing **CWP No.22713 of 2013** tiled as **“Jagdish Lal and others V/s State of Haryana and others”**, **CWP No.28449 of 2013** titled as **“Prem Nath and another V/s State of Haryana and others”** and **CWP No.12532 of 2013** titled as **“Lalit Kumar Khosla V/s State of Haryana and others”**.

The grievance of the petitioner(s) is that the direction given by this Court in CWP No.13953 of 2013, as indicated in the impugned order dated 06.09.2013 (Annexure P-23), has not been complied in letter and spirit, in fact, the policy/instructions of the Government dated 01.02.2006 has been held to be inapplicable owing to the conversation of the Municipal Council, Ambala as Municipal Corporation w.e.f. 17.03.2010.

The conceded case of the petitioner(s) is in pursuance to the aforementioned instructions, whereby the Government decided that the lands, buildings and shops which are on rent/lease or on *Tehbazari* be allotted/sold to the occupier, who were paying lesser rent particularly rent

less than ₹ 500/-, on the premise, that the instruction similarly applied to the Municipal Committee and Municipal Council, but not to the Municipal Corporation. In this regard, reference has been made to the Section 423 (2) of the Haryana Municipal Corporation Act to contend that all the actions initiated before the declaration of the Municipal Corporation continued to be in force and cannot be eradicated in the manner and mode, indicated above. The reference was also made to the order dated 31.01.2017 passed by this Court in CWP No.9790 of 2008 titled as “M/s Personnel Management Association V/s State of Haryana and others”, wherein this Court had disposed of the writ petition involving the identical matter in respect of the Municipal Corporation, Faridabad, by directing the Municipal Corporation, Faridabad to consider the case of the petitioner(s), therein, for the allotment of the premises at the prevailing rate.

In the instant cases also, the petitioner(s) have stated to have been submitted the applications/representations.

Learned counsel for the respondent(s) and Mr. Sandeep Singh Mann, Sr. DAG, Haryana submits that instructions though in fact apparently do not apply to the Municipal Corporation, but while passing the order to the Municipal Corporation, had not taken into consideration the provisions of law and shall consider the same, in case, the appropriate direction is issued.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the impugned orders, under challenge, are not sustainable, much less, maintainable in law, for, the provisions of Section 423 (2) of the Haryana Municipal Corporation Act, extracted

hereinbelow:

“(2) All proceedings pending before any authority of the said municipality including area comprising rural area or a part thereof, if any on the day the Corporation was constituted which under the provisions of this Act are required to be instituted before or undertake by the Commissioner, shall be transferred to and continued by him and all other such proceedings shall, so far as may be, be transferred to and continued by such authority before or by whom they have to be instituted or undertaken under the provisions of this Act.”

leave no manner of doubt that all the proceedings/actions initiated before the declaration of the Municipal Corporation shall remain intact and cannot be done away in the manner and mode, indicated in the impugned order. If at all, the Officer concerned was having some doubt, legal opinion could have been, in this regard, taken.

It is the second round of litigation at the instance of the petitioner(s) and the petitioner(s) have been deprived of a legitimate right in view of the offer given by the Government, in fact, the Government has not passed on the specific instructions to all the Municipal Councils and Municipal Corporations, in this regard, thus, there is a breach of the *Doctrine Akin to "Legitimate Expectation"*.

In my view, there is no need to even direct the respondent(s) to reconsider the case of the petitioner(s) keeping in view the aforementioned provisions, instead direction is issued, the application of the petitioner(s) for the allotment of the shops in their occupation concededly drawing a rent less than ₹ 500/- from the date prevailing, when the applications were submitted, shall be considered.

For the foregoing reasons, the impugned orders under challenge are hereby set aside and the writ petitions stand disposed of.

Let this exercise be done within a period of four months from the receipt of the certified copy of this order.

07.02.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

✓
Yes/ No

Whether Reportable

✓
Yes/ No