

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.22714 of 2016 (O & M)
Date of decision: 15.03.2017

Vedic Vidyapeeth Educational Society and another

....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Manoj Bajaj, Advocate for the petitioners.

Mr. Lokesh Sinhal, Addl. AG, Haryana and
Mr. Surender Singh Pannu, DAG, Haryana for the State.

S.S.Saron, J.

The Director, Town and Country Planning is present in Court.

Mr. Lokesh Sinhal, Addl. AG, Haryana has submitted two plans, one is Draft Development Plan to amend the Final Development Plan 2021-AD for Controlled Area I and Additional Controlled Area II and III under Sub Section (3) of Section 5 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Act No.41 of 1963) ('Act' - for short). The said plan has been published in the Haryana Government Gazettee (Extra) dated 15.05.2008. The other plan that has been submitted is Draft Development Plan 2031-AD for Controlled Area and Additional Controlled Area II and III under

Section 5 (4) of the Act. The Draft Development Plan 2031-AD, it is submitted, has not been approved whereas the Draft Development Plan 2021-AD has been approved and published in the Haryana Government Gazettee (Extra) dated 15.05.2008. It is further submitted that the site for Sewerage Treatment Plant ('STP' - for short) has not been earmarked in the approved Draft Development Plan 2021-AD.

The Draft Development Plans 2021-AD and 2031-AD are taken on record subject to just exceptions.

The petition has been filed by the petitioner under Article 226 of the Constitution for issuing directions declaring the action of respondents No.1 to 5 in awarding the tender/contract in favour of M/s Girdhari Lal Aggarwal Contractors Pvt. Ltd. (respondent No.6) for construction of Sewerage Treatment Plant ('STP' - for short) and Main Pumping Station ('MPS' - for short) through a letter/communication dated 05.01.2016 (Annexure P-6) whereby the site earmarked for the purpose of setting up STP in the approved Draft Development Plan 2031-AD of District Panipat has been substituted by extending discretion in favour of the respondent No.6 to purchase the land for the said purpose, which would be later on incorporated in the Draft Development Plan 2031-AD (Annexure P-4). The said action according to the petitioner is patently wrong, illegal, arbitrary, mala fide, discriminatory and violative of Articles 14 and 21 of the Constitution of India as well as the provisions of the Act. Therefore, the award of contract/tender (Annexure P-6) it is prayed may be quashed. A further prayer has been made for directing the official respondents to act in accordance with law and

abide by the approved Draft Development Plan 2031-AD of District Panipat which contains the earmarked site for the purpose of setting up STP opposite the land chosen by private respondent No.6.

It is submitted by Mr. Lokesh Sinhal, Addl. AG, Haryana that 58 per cent of the work at the site has been completed in respect of the Sewerage Treatment Plant. In fact in the case, Anant Ram v. Vikas Gupta COCP No.1149 of 2011 i.e. contempt petition pending in this Court, status of STPs/CETPs constructed after October, 2014 in HUDA area, as on 15.01.2017, has been submitted in this Court. With respect to 30 MLD (Million Liter Per Day) (capacity) STP at Panipat, it has been submitted that the work for the same was allotted in March, 2016 and it is likely to be completed by February, 2018. The STP is under construction.

The grievance of the petitioner is that the land of the petitioner which is situated adjacent to the site where the STP is being constructed and raised would be affected as the earlier earmarked site has been changed.

In this regard, it has in fact been clarified that though the site for the construction of STP has been earmarked in the Draft Development Plan 2031-AD but no such site was earmarked in the Draft Development Plan 2021-AD. The Draft Development Plan to amend the final Development Plan 2021-AD has been published in the Haryana Government Gazette (Extra) dated 15.05.2008. The other Draft Development Plan 2031-AD has not been published in the Gazette. Therefore, Draft Development Plan 2031-AD where the site has been depicted is in the nature of a proposal which has not been published, while the Draft Development Plan 2021-AD, in

which no site for constructing STP has been depicted, is final. Besides, 58 per cent of the work at the site regarding the construction of STP, has already been completed. In this regard, status report has been submitted before this Court in Anant Ram v. Vikas Gupta, COCP No.1149 of 2011. It is mentioned therein that work of 30 MLD capacity STP at Panipat allotted in March 2016 has been under construction and is likely to be completed by February, 2018.

In the matter of construction of Sewerage Treatment Plants which are for providing clean environments and pollution free atmosphere, the interference by the Court is to be minimal. In Jai Narain v. Union of India, AIR 1996 SC 697 the petitioners had challenged land acquisition notices in village Nilothe, National Capital Territory (NCT) of Delhi. The Supreme Court had been monitoring the constructions of STPs in various parts of Delhi in public interest proceedings in M.C. Mehta v. Union of India, Writ Petition (Civil) No.4677/85. The land in dispute was being acquired for a public purpose namely for setting up Pumping Station/Sewerage Treatment Plant in villages Jasola, Nilothe and Shaffipur Ranola for planned development of Delhi. The cases were transferred to the Supreme Court. Regarding the STP in Okhla area, it was found that the dispossession of the land owners in respect of large area of land under acquisition was stayed by the High Court in writ petition filed by them. The Supreme Court in M.C. Mehta's case (supra) on 14.12.1994 vacated the stay orders granted by the High Court in various writ petitions and the Delhi Administration was directed to take over the possession of the land and hand it over to the Delhi

Water Supply and Sewerage Disposal Undertaking.

In M/s Balwant Singh Sher Singh Rice Mills v. State of Haryana and another, 2007 (3) RCR (Civil) 839 (DB) (P&H), petitions were filed in this Court assailing land acquisition notifications in pursuance of which land for acquisition for a public purpose, namely, for the construction and development of Industrial Estate, Karnal and laying of Sewerage and Storm Water Drainage in Sector 3, Karnal had been notified. It was said that the notifications itself showed that the purpose of acquisition was two fold. A Division Bench of this Court held that it could, therefore, safely be deduced that the plots to be allotted in the Industrial Estate would be used for various kind of industries. Surely, there would be discharge of sewerage effluents and there would also be requirement for storm water drainage. However, the acquisition proceedings were not be struck down merely on the ground that the plan did not reflect clearly where the sewerage and storm water drainage area had been provided. With more area coming under industry, the requirement for sewerage disposal and water drainage also increased manifold. The planning itself was required to be done for years to come.

Therefore, the fact that the plan for acquisition did not clearly reflect where the Sewerage and Storm Water Drainage Area had been provided for, was held to be not a ground for striking down the acquisition proceedings. As such, the mere fact that the Development Plan 2021-AD does not reflect the area where the STP is to be installed would not warrant interference of this Court in exercise of its supervisory writ jurisdiction under Articles 226/227 of

the Constitution, which is discretionary and is to be exercised only in furtherance of interests of justice and not merely on the ground that a technical point is made out. Besides, in the matter of construction of STPs and for matters relating to environment, the interests of justice and the public interest coalesce. Therefore, in the circumstances, it would be inexpedient to interfere with the construction of the STP which is going on and 58% of which is stated to be complete. Mr. Lokesh Sinhal, Addl. AG, Haryana on instructions from Mr. D.K. Ahuja, Executive Engineer, HUDA Panipat has also submitted that no pipe line would be laid under the land of the petitioners in any manner.

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

(S.S. SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

15.03.2017
A.Kaundal

Note:

1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : Yes