

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.27127 of 2015

Date of Decision: February 22, 2017

Shanoor Foods Pvt.Ltd., Ludhiana

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Anand Chhibbar, Senior Advocate with
Mr.Vaibhav Sahni, Advocate,
for the petitioner.

Mr.Lavanya Paul, Advocate, AAG, Punjab,
for the State.

Mr.Ajay Pal Singh, Advocate,
for respondent Nos.2, 12 & 13.

Mr.Nitin Kaushal, Advocate,
for respondent No.8.

Mr.Ishan Sharma, Advocate,
for respondent No.9.

Mr.Amandeep Singh Talwar, Advocate,
for respondent No.14.

AMIT RAWAL, J. (Oral)

Civil Misc.No.2680 of 2017

Prayer in the application is for placing on record the affidavit in
terms of order dated 17.2.2017.

Allowed subject to all just exceptions.

CWP No.27127 of 2015

The petitioner, a registered company, has approached this Court
with the following prayer:-

“Civil Writ Petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the impugned withdrawal letter of Regulatory Clearances-II dated 21.03.2005 (Annexure P-12) issued for setting up of Meat Plant at Village Ghanauri Kalan, Tehsil Dhuri, District Sangrur issued by the Respondent State as the reasoning given for the withdrawal of the said letter was given without any show cause notice or opportunity of hearing and in any case the reasons for the withdrawal have since been complied with by the petitioner Company as No Objection Certificates have been received from the residents and various Social and Religious Institutions for setting up of the Project of the petitioner company which have since been submitted to the Respondent and there would be no water and soil pollution as clearance certificate has already been obtained from the Pollution Board.

AND

Further a writ in the nature of Mandamus directing the Respondents to allow the setting up of the Meat Plant at Village Ghanauri Kalan, Tehsil Dhuri, District Sangrur as all necessary clearance certificates have been received by the petitioner company as intimated by the respondents vide letter dated 10.09.2014 (Annexure P-8).

AND

Further of a writ in the nature of Mandamus directing the respondents not to interfere into the peaceful possession of the Petitioner Company as all requisite permissions have been taken from the State Government of Punjab as well as all the concerned Authorities and huge investments to the tune of almost Rs.20 Crores have already done by the petitioner company which includes the purchase of land, construction of the building and purchase of machinery, employing labor and staff for setting up of the plant etc.

AND

Further of a writ in the nature of Mandamus directing the

Respondents to decide equitably and sympathetically the representations dated 11.04.2015 and 04.08.2015 (Annexure P-13 & Annexure P-15) made by the Petitioner Company in order that the business can be saved and the impugned letter dated 21.03.2015 be withdrawn.

AND/OR

Any other appropriate Writ, Order or Direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be issued."

Mr.Anand Chhibbar, learned Senior Counsel assisted by Mr.Vaibhav Sahni, representing the petitioner-company submits that in the year 2013, the State of Punjab had come up with 'Progressive Punjab Investors Summit' with the objective to attract opportunities for companies to invest in the State and new Industrial Policy which aims at incentivizing the growth of Sector such as Information Technology, Manufacturing, Agro and Food Processing, Infrastructure, Skills, Bio-Sciences and Medical Tourism. The department of Industries and Commerce issued a notification dated 5.12.2013 formulating 'Fiscal Incentives for Industrial Promotion-2013' (Annexure P-4) to facilitate the development of industry in the State of Punjab.

He further submits that on 6.12.2013, a Memorandum of Understanding (Annexure P-5) between Shanoor Foods Private Ltd, i.e., the petitioner company and the Government of Punjab, Department of Agriculture was entered into, whereby the petitioner had intended to set up Integrated Modern Mechanized Slaughter House with Meat Processing Unit and Rendering Plant at Ghanauri Kalan, Dhuri, District Sangrur. As a result thereof, land measuring 7 acres, vide separate sale deeds (Annexure P-6), was purchased. Approximately a sum of Rs.6.5 crores was spent on the

purchase of the said land. Resultantly, the petitioner company, vide various letters, applied for grant of Regulatory Clearances for setting up of the aforementioned unit with a fixed capital investment of Rs.31.96 crores, to be incurred on building, plant and machinery. On 10.9.2014, Regulatory Clearances-I (Annexure P-8) along with No Objection Certificates had been issued. The letter dated 10.9.2014 intimated the following No Objection Certificates from various department:-

- a) NOC from the Punjab Pollution Control Board;
- b) NOC from Punjab State Power Corporation Limited;
- c) NOC from Forests & Wildlife, Department.

After obtaining the letter of Regulatory Clearances-I, the petitioner company got prepared the site plan for setting up the plant and submitted the same with the Government Authorities for approval. Resultantly, letter of Regulatory Clearances-II dated 13.1.2015 (Annexure P-10) was issued, in essence the Factory Building Plan under the Factory Act, 1948 and Punjab Factories Act, 1952, has been accepted. Thereafter, the construction commenced and a huge amount of Rs.6.00 crores, has been spent, which is reflected from the balance sheet and the transaction details (Annexure P-11 collectively).

He further submits that the petitioner company was flabbergasted/astonished on receipt of letter dated 21.3.2015 (Annexure P-12), whereby the Deputy Commissioner, Sangrur, after getting the reports from the SDM, Dhuri and DSP, Dhuri, recommended the Punjab Bureau of Investment Promotion to re-consider its decision in granting the approval as it amounted to hurting the religious sentiments, much less law and order situation. The aforementioned order had been passed at the back of the

petitioner and without giving any opportunity of hearing. As a result thereof, the Punjab Bureau of Investment Promotion withdrew the letter of Regulatory Clearances-II. A representation dated 11.4.2015 (Annexure P-13) in this regard was submitted to the Chief Executive Officer of the aforementioned Bureau for reviving the letter. The said representation was accompanied by NOCs from the Gram Panchayat, Social and Religious Institutions. The Patwari, Circle Ghanauri Kalan had also submitted report dated 15.9.2015 indicating 'no objection' from various Gram Panchayats and religious institutions. Even the SSP, Sangrur also conducted an enquiry and submitted that the Meat Plan is located at a distance of about 2 to 3 Kms from the village and assurance has been given to the villagers that no damages will be caused to the local villages. The report dated 22.9.2015 is Annexure P-18. The factum of raising of construction is revealed from Annexure P-19.

During the pendency of the present writ petition, this Court vide order dated 6.4.2016 granted liberty to the petitioner to make a comprehensive representation to respondent Nos.2, 12 and 13 within a week, which shall be considered objectively and decided in accordance with law. Resultantly, a comprehensive representation dated 12.4.2016 (Annexure P-20) was submitted, resulting into passing of detailed order dated 5.5.2016 (Annexure P-21) attached with Civil Misc.No.5544 of 2016, whereby, the Additional Chief Secretary, Department of Investment Promotion, after hearing the parties, the local villagers and the members of the Gram Panchayat, considered it proper that as the construction had been raised before the sanctioning of the building plan, the same was, thus, ordered to be regularised subject to deposit of the compounding damages, if

any. As regards the passing of 11 KV lines through the site, the petitioner was directed to get the same removed subject to the conditions being imposed by the Punjab State Power Corporation. Learned counsel submits that a sum of Rs.1,82,000/- has already been deposited for shifting of the 11 KV lines.

During the course of the hearing, certain objections were being sought to be projected in this Court, which have been meted out, particularly in pursuance to the order dated 17.2.2017. The affidavit dated 21.2.2017 of Shri Vimal Kumar Abbott, Director has been annexed with Civil Misc.No.2680 of 2017. The same reads as under:-

“Affidavit of Vimal Kumar Abbott, Director, Shanoor Foods Pvt.Ltd., registered office at 1098, G.T.Road Clock Tower, Ludhiana, Punjab.

I, the above named deponent do hereby solemnly affirm and declare as under:-

- 1. That the Deponent states that the deponent will purchase/outsouce the water which is to be used in the Integrated Modern Mechanized Slaughter House and will not use the ground water for the same.*
- 2. That the deponent further states that the Integrated Modern Mechanized Slaughter House is equipped with modern technologies and the deponent is using ETP Plant in its slaughter house wherein the water can be recycled and reused.*
- 3. That the deponent further states that there will be no kind of pollution as no water from the Slaughter House will flow outside and get mix with the surrounding land or will flow into any canal located near the slaughter house.*
- 4. That the deponent also states that the deponent will contribute to metal the road after obtaining prior and necessary permissions from the Government as prescribed under the law.*
- 5. That the deponent further states that since the slaughter*

house is Integrated Modern Mechanized Slaughter House, there will be no pollution as the slaughter house is equipped with modern technology and further no waste will mix into the surrounding land.

6. That the deponent further undertakes to generate employment (direct and indirect) to almost 500 people of the surrounding villages if the project of the deponent is allowed to be operational.”

Mr.Amandeep Singh Talwar, learned counsel for respondent No.14 submits that the affidavit does confirm to the requirements of the apprehension of respondent No.14 as reflected in the order of this Court, but the fact remains that setting up of a slaughter house near the residential area is likely to cause health hazards to the local residents. The source of water and its utilisation is conspicuously wanting. The NOC is inconsequential as the residents of the village are against the setting up of the plant. Even there is no metaled approach road to the factory and owing to the heavy flow of trucks, there is likelihood of causing air pollution, much less health hazard.

Mr.Ajay Pal Singh, learned counsel for respondent Nos.2, 12 and 13 submits that the Bureau gives the clearances in three situations, i.e., (I), (II) and (III). Letter of Regulatory Clearance-II, subject to the conditions as indicated in Annexure P-10, has already been given. Thereafter, the situation, the moment company started the construction, arose before the company whether it conforms to the requirements of the NOC and such exercise would be done by various affidavits filed, including the Punjab Pollution Control Board.

Mr.Chhibbar has also submitted that for the purpose of processing of the project, which is 100% export oriented industry, would not be using the ground water, but instead would be outsourcing the same

and for that Effluent Treatment Plan (ETP) is being installed with facility of re-using and re-cycling of the water. Initially, the petitioner applied for permission for slaughtering around 2500 animals per day, but the Government has granted permission only for 600 animals per day. The petitioner company undertakes to construct the metaled road at its own expenses. Even the external development charges have been deposited and the charges, if due, would be paid when the demand by the concerned department is raised.

He further submits that even the power production shall also be recycled and used. Though the permission granted by the Pollution Board for using of the treated water is for plantation only, but once the water is being re-used, the condition of plantation would not be required.

Mr.Nitin Kaushal, learned counsel for respondent No.8 submits that that the new feasibility report and the project report would be seen by the Punjab Pollution Control Board at the time when the unit is ready for the commencement, in essence it would verify and ascertain whether the existing plant or the purposed plant would be conforming to the bye-laws of the air and water pollution.

I have heard the learned counsel for the parties and appraised the paper book.

In view of the aforementioned facts and the subsequent events, which have taken place, particularly the letter dated 5.5.2016 (Annexure P-21), I am of the view that order Annexure P-12 has become redundant, much less inoperative and diluted. Resultantly, the same is quashed. The writ petition is, thus, allowed with the following terms:-

- a) The petitioner company shall adhere to the undertaking,

which is reflected in the affidavit with regard to the outsourcing of the water and its uses, much less re-cycling;

b) The petitioner company shall install the world class ETP;

c) The petitioner company would submit an application to the authorities for construction of the metalled approach road and would fulfill all other requirements, which the Punjab Pollution Control Board, would raise from time to time.

In view of the aforementioned fact, the Letter of Regulatory Clearances-II in pursuance to the letter dated 5.5.2016 (Annexure P-21), is ordered to be revived as the construction has already been completed and not rebutted by the respondents.

February 22, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No