

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

CWP No.23023 of 2017 (O&M)

Date of decision:-24.10.2017

Alpha Residents Welfare Association .. Petitioner

vs.

State of Haryana and others .. Respondents

Coram: HON'BLE MR.JUSTICE S.J.VAZIFDAR,CHIEF JUSTICE
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Rajinder Goyal, Advocate for the petitioner.

Mr. Deepak Balyan, Addl. A.G., Haryana.

Mr. Alok Jain, Advocate for respondent No.5.

Mr. Rahul Deswal, Advocate for respondent No.6.

S.J. VAZIFDAR, CHIEF JUSTICE

Respondents No.2, 3 and 4 are the Deputy Commissioner, Karnal, Municipal Council, Karnal and the Director, Town & Country Planning, Haryana, who exercises powers under the Haryana Development and Regulation of Urban Areas Act, 1975 (for short 'the 1975 Act'). Respondent No.5-M/s Alpha G. Corp. Development Ltd. is a developer of an area of about 224 acres of land in which plots are located, which have allotted to some of the members of the petitioner's association.

2. The petitioners seek an order directing the official respondents No.1 to 4 to prevent the private respondents No.5 and 6 from organizing a Harmony 2017 Fair which is stated to be a Festival and Youth Convention, Confluence of Crafts, Culture Cuisine, Trade & Youth Activities between 21st to 29th October, 2017.

3. Initially, the petitioner expressed an apprehension regarding the event giving rise to problems relating to law and order pollution, fire safety, traffic congestion etc.

4. Respondent No.6-National Integrity Firm of Arts and Activities, is an NGO. It has annexed several documents establishing its high credentials with which we are not concerned at least at present.

5. The District Magistrate, Karnal by a letter dated 22.09.2017 addressed to respondent No.6-NIFAA granted permission for organizing the International Cultural Festival and Youth Harmony Conference-2017 from 21st to 29 October, 2017 on various terms and conditions stipulated therein. It is not contended that these conditions have been violated. In any event, the authorities are liable and bound to ensure compliance with these conditions.

6. Our attention has not been drawn to any provision of law, under which any further permissions are to be obtained. Despite the same, it is clarified that any such activity can be conducted only in the event of parties obtaining the required permissions and licences. Even hereafter, it would be open to any party concerned including the members of the petitioner's association to draw the attention of any authority whose permission ought to have been sought but has not been sought.

7. Before us, it was submitted that in any case, this event cannot be held without the permission of respondent No.4 -Director , Town & Country Planning (DTCP). It is contended that the developer -respondent No.5 had obtained licences under Section 3 of the 1975 Act for the development of the colony comprised in an area of 226.462 acres and for no other purpose. We are informed that the entire development would ultimately be of 1450 plots. As on date 60-70 allottees have put up construction on their respective plots. Although, the present event has progressed and the petitioner has not indicated a breach of any provision of

law, it would be necessary to decide the issue now raised namely whether the event would contravene the terms and conditions of the licence at least for the future.

8. The contention of the petitioner is that the licence under Section 3 of the 1975 Act are only for the purpose of developing a residential colony and for no other purpose. Accordingly, holding such events contravenes the terms and conditions of the licences.

9. The question that arises is whether the developer is entitled to use the property for any purpose other than for the purposes for which the licence is issued. It would be appropriate for the petitioner to first approach the DTCP regarding the alleged breach of the terms and conditions of the licences. The DTCP shall pass a reasoned order after affording all the parties concerned including respondent No.5 -the developer and the allottees such as the petitioner's members an opportunity of being heard. We would fix the time limit for this decision in view of the importance of this issue not only for the future as far as present development is concerned but for similar developments as well. There may today be only 70 allottees. That may make no difference on the question as to whether the developer is entitled to use the property. If it is found that such events violate the terms and conditions of licence, the number of persons who raise the objection would make no difference.

10. We are informed that on account of the traffic congestion there was a tragic incident leading to senior citizen dying. The authorities concerned especially the Traffic Police are ordered and directed to ensure that the traffic is properly regulated including by facilitating the movement especially of emergency vehicles smoothly throughout the property.

The Police shall be entitled to re-designate the parking areas and implement any other regulatory directions. The Traffic Authority shall ensure a clear passage from the places where the allottees' plots are located to exit points without any obstruction whatsoever.

11. The District Magistrate is requested to personally ensure that this order and all other orders of the authorities are complied with.

12. In the circumstances, this petition is disposed of in the above terms. Further, the petitioner shall be at liberty to file an application before the DTCP regarding the private respondents' rights to hold similar events in future. The DTCP is requested to pass a reasoned order on an application if filed within 12 weeks of the filing of the application. The DTCP shall afford all parties concerned including the petitioner and the private respondents an opportunity of being heard. Needless to add that any person concerned may participate in the proceedings even if he is not a member of the petitioner's association.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

24.10.2017
Atul

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No