

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

CWP-26606 of 2016

Date of Decision:- 10.01.2017

Raghuraj Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present:- Mr. Dhruv Gautam, Advocate,
for the petitioner.

S.S.Saron, J.

The Petitioner had taken time to show his locus standi to file the present writ petition. However, no additional document or material has been filed.

Learned counsel for the petitioner was confronted with a Division Bench judgment of this Court in **Ajaib Singh and another Vs. The State of Punjab and others**, (2013 - 4) PLR 367 which deals with the Maintainability of Public Interest Litigation Rules, 2010 ('Rules' - for short) particularly Rules 6 and 7 thereof. Rule 6 of the Rules provides that ordinarily, a PIL may be entertained on any subjects like; bonded labour matters, neglected children, petitions from riot victims, petitions complaining of harassment or torture of persons belonging Scheduled Castes, Scheduled Tribes and other Backward Classes by the others or by the police, petitions pertaining to environmental pollution, disturbance of ecological balance, forest and wild life and petitioners complaining violation of human rights. Rule 7 provides that the Registry shall be entitled

to verify the antecedents of a person, society or an association who invoke the jurisdiction of the High Court on the cause of public interest, besides, wherever the Registry has any doubt on such antecedents, an office note to this effect is to be put up, except on the petitions which are received by post.

The Registry raised objections in the present petition that has been filed. The petitioner was asked as to how the present case falls under the Rules, besides, it was informed that the writ petition be filed according to the directions passed in Ajaib Singh's case (supra) which it was mentioned was available on the website of the High Court.

Learned counsel for the petitioner on the said objections recorded by the Registry mentioned that all objections had been removed. Another note was recorded by the learned counsel to the effect let the matter be put up before the Bench for directions.

In Ajaib Singh's case (Supra), directions were issued by a Division Bench of this Court that the Registry must ensure strict compliance with the Rules and would return petitions styled as PIL with objection(s) unless the parameters mentioned in the Rules were satisfied. It was said that there is in fact a mandate on the Registry as per Rule 7 of the Rules to verify the antecedents of the persons, societies or associations who invoke jurisdiction on the cause of public interest and, if they are not satisfied with the antecedents, to return the petition. It was also emphasized that the petitioner is to specifically disclose his credentials and his direct or indirect personal motive or interest involved in the case, if any, by way of an affidavit. The expression is "specifically disclose his credentials", it was held also must, naturally imply that he had to set forth what he does for his living, what public interest he has been espousing, the work done by him in

that behalf, the particulars of any matter preferred by him as PIL on which the Court had passed orders, etc. It could not imply merely writing a sentence that a person is residing in the State, is public-spirited and is, thus, filing the PIL.

The petitioner has filed an affidavit in which he states that he is an agriculturist and has no direct or indirect personal interest in the present PIL except the *bona fide* public interest as prayed in the writ petition. It is deposed that he earns Rs.15,00,000/- (approximately) from ancestral property and village land in District Bulandshahr, Uttar Pradesh. There is no mention of any public cause that he has espoused. Therefore, according to the Rules framed by this Court and in the absence of showing any public cause which the petitioner may have pursued, it would be somewhat doubtful as to whether he has the *locus standi* to file a petition in the nature of public interest in accordance with the Rules.

Even otherwise, the petition has been filed in the nature of a public interest litigation so as to oppose various development plans as published by the State of Haryana through the Department of Town and Country Planning pertaining to the period beyond the year 2021. The petitioner seeks (1) to quash the following Development Plans:-

- a. Draft Development Plan-2031 for the settlement of Faridabad -Ballabhgarh dated 14.7.2014 (Annexure P-4)
- b. Final Development Plan 2031 for settlement of Gurugram-Manesar dated 15.11.2012 (Annexure P-5)
- c. Final Development Plan 2031 for the settlement of Bahadurgarh dated 13.07.2012 (Annexure P-7)
- d. Draft Development Plan 2031 for the settlement of

Rohtak dated 07.01.2013 (Annexure P-9)

e. Final Development Plan 2031 for the settlement of Sohna dated 15.11.2012 (Annexure P-14)

f. Final Development Plan 2031 for the settlement of Jhahhar dated 13.07.2012 (Annexure P-15)

g. Final Development Plan 2025 for the settlement of Karnal dated 12.04.2012 (Annexure P-16)

A further prayer has been made for (2) quashing the following Development Plans as published by the State of Haryana through the Department of Town and Country Planning as they are not in conformity with and are stated to be contrary to the Regional Plan 2021:-

a. Draft Development Plan-2031 for the settlement of Faridabad -Ballabhgarh dated 14.7.2014 (Annexure P-4)

b. Final Development Plan 2031 for settlement of Gurugram-Manesar dated 15.11.2012 (Annexure P-5)

c. Final Development Plan 2031 for the settlement of Bahadurgarh dated 13.07.2012 (Annexure P-7)

d. Draft Development Plan 2031 for the settlement of Rohtak dated 07.01.2013 (Annexure P-9)

e. Final Development Plan 2031 for the settlement of Sohna dated 15.11.2012 (Annexure P-14)

f. Development Plan 2021 for the settlement of Sonapat-Kundli dated 02.09.2003 (Annexure P-6)

g. Development Plan 2021 for the settlement of Panipat dated 18.12.2006 (Annexure P-8)

h. Draft Development Plan 2021 for the settlement of

Rewari dated 05.12.2005 (Annexure P-11)

- i. Draft Development Plan 2021 for the settlements of Dharuhera dated 28.12.2007 (Annexure P-12) and
- j. Draft Development Plan 2021 for the settlements of Bawal dated 05.12.2007 (Annexure P-13).

Further prayers have been made to:- (3) quash all Development Plans that have been published by the State of Haryana through the Department of Town and Country planning without the requisite approval of the National Capital Regional Planning Board ('NCRP Board' - for short); (4) quash the Haryana Sub-Regional Plan 2021 as published by the Department of Town and Country Planning as the Sub Regional Plan it is alleged is not in conformity with the Regional Plan 2021; (5) direct the NCRP Board to immediately issue notice under Section 29 of the National Capital Regional Planning Board Act, 1985 ('NCRPB Act' – for short) to stop the development which is contrary to the Regional Plan 2021 in the Haryana Sub Region; (6) direct the NCRP Board with withhold the grants/loans that are to be released to the State of Haryana; (7) direct the State of Haryana to redraft Haryana Sub-Regional Plan 2021 and Development Plans of the settlements/area falling within Haryana Sub Region of the National Capital Region in conformity with Regional Plan 2021 and get the same approved from the NCRP Board before publishing/implementing the same; and (8) direct the State of Haryana not to undertake any development in the Haryana Sub Region which is not as per the norms and provisions of Regional Plan 2021.

We have heard learned counsel for the petitioner and perused the case file.

It is to be noticed that the petitioner filed W.P. (C) 5559/2013 & CM No.15049/2013 in Hon'ble the Delhi High Court. The said petition was against Union of India, the State of Haryana was respondent No.4 in the said petition, besides, the State of Uttar Pradesh was respondent No.3, the State of Rajasthan was respondent No.5 and Government of NCT of Delhi was respondent No.6. The petitioner alleged that there was violation and contravention of the Regional Plan drawn up by the NCRP Board constituted under the NCRPB Act. It was alleged that the State Governments were obliged to prepare their respective Sub-Regional Plans and Master Plans in respect of their respective States, which were covered in the National Capital Region in conformity with the Regional Plan and thereafter, only carry out development in the said parts. However, according to the petitioner the States were going ahead and allowing development contrary to the Regional Plan, thereby defeating the very purpose of harmonious development of the National Capital Region to save Delhi from population explosion and avoid haphazard development.

Learned counsel for the petitioner referred to the observations of Hon'ble the Delhi High Court in 'Raghu Raj Singh v. Union of India' W.P. (C) 5559/2013 and CM No.15049/2013 decided on 30.09.2014, wherein in Para 9 it has been observed that the learned Senior Counsel for the petitioner in the said case had been urging before the Court that the Master Plans prepared by the respondents No.3 to 6 States of the towns falling in their respective sub regions were in contravention of the Regional Plan. The Court enquired from the learned Senior Counsel whether the territorial jurisdiction of the Court i.e. Hon'ble the Delhi High Court

extended to striking down Master Plans of towns falling in the States of Uttar Pradesh, Haryana and Rajasthan and which otherwise were beyond the territorial limits of the said Hon'ble Court. It was noticed that no specific allegation of any violations of the Regional Plan within the territorial jurisdiction of the said Hon'ble Court was highlighted. In this regard, attention of the learned Senior Counsel for the petitioner was drawn to the fact that the Act did not appear to extend the territorial jurisdiction of the Court to sub regions of the other participating States i.e. the States of Uttar Pradesh, Haryana and Rajasthan even though falling in the National Capital Region. In para 10 it was observed that the learned Senior Counsel for the petitioner could not controvert the position and agreed that the challenge, if any, to the Master Plans of any of the town in other participating States would have to be made in the respective High Court of that State or in accordance with the laws of that State. He, however, contended that it was within the jurisdiction of Hon'ble the Delhi High Court to issue directions to the NCRP Board situated within the jurisdiction of the said Hon'ble Court. Attention in this regard was invited to Sections 7 to 9 and Section 29 of the NCRPB Act. Hon'ble the Delhi High Court also said that though the importance and necessity of planned development, and with which objective the NCRPB Act was enacted, could not be undermined but on account of territorial limits of jurisdiction, its hands were tied. All that the Hon'ble Court could direct in the said petition was for the NCRP Board to be vigilant of the developments in the National Capital Region and wherever it finds any violation, immediately act in accordance with Section 29 (2) of the NCRPB Act. However, since the NCRPB Act itself did not empower the NCRP Board to take any other coercive steps to ensure compliance of the

Regional Plan and/or to prevent violations thereof, the Court it was said was unable to issue any other directions. However, it was found that Section 39 of the said NCRPB Act empowered the Central Government to dissolve the NCRP Board, if *inter alia*, it was of the view that the NCRP Board had failed in its objectives. The NCRP Board would certainly be deemed to have failed in its objective, if it either failed to keep a track of the developments in the region with a view to gauge and determine whether the same were in consonance with the Regional Plan or not or if the NCRP Board inspite of finding violations of the Regional Plan failed to issue any directions to the erring State/Union Territory or if the NCRP Board notwithstanding the erring State/Union Territory not complying with such directions did not withhold financial assistance to such participating States or Union Territory or if not withstanding all this, the participating States/Union Territory still proceed and continued with the violations of the Regional Plan. A reference was made to Section 39 of the NCRPB Act which further provides that upon the dissolution of the NCRP Board, the Central Government would discharge the functions entrusted under the NCRPB Act to the NCRP Board. The Court was of the opinion that the Central Government exercising the powers of the NCRP Board would be in a better position to ensure compliance thereof and would be justified in dissolving the NCRP Board and taking over it the functions unto itself.

14. The relevant directions issued by Hon'ble the Delhi High Court are as under:

“16. Though the importance and necessity of planned development, and with which objective the NCRPB Act was enacted, cannot be undermined but on account of territorial

limits of our jurisdiction, our hands are tied. All that we can direct in this petition is, for the NCRPB to be vigilant of the developments in the NCR and to, wherever finds any violation, immediately act in accordance with Section 29(2) of the Act. However since the NCRPB Act itself does not empower the NCRPB to take any other coercive steps to ensure compliance of the Regional Plan and / or to prevent violations thereof, we are unable to issue any other directions. However we find that Section 39 of the said Act empowers the Central Government to dissolve the NCRPB if inter alia of the view that the NCRPB has failed in its objectives. NCRPB would certainly be deemed to have failed in its objective if the NCRPB either fails to keep a track of the developments in the region, with a view to gauge and determine whether the same are in consonance with the Regional Plan or not or if the NCRPB inspite of finding violations of the Regional Plan fails to issue any directions to the erring State / Union Territory or if the NCRPB notwithstanding the erring State / Union Territory not complying with such directions does not withhold financial assistance to such participating State or Union Territory or if notwithstanding all of this, the participating States / Union Territory still proceed and continue with the violations of the Regional Plan. Section 39 further provides that upon the dissolution of the NCRPB, the Central Government would discharge the functions entrusted under the Act to the NCRPB. We are of the opinion that the

Central Government, exercising powers of NCRPB would be in a better position to ensure compliance thereof and would be justified in dissolving the Board and taking over its functions unto itself.

17. We also implore the respondents no.3 to 6 States to appreciate and realize the importance of the subject and which is in the common good of the residents / citizens of all the participating States / Union Territories. Neither of the participating State / Union Territory for its own short term gains ought to indulge in violations of the Regional Plan. It cannot be lost sight of that NCRPB Act has come into being only upon the Governments of each of the participating States resolving to abide thereby and each of the participating States is a constituent of the NCRPB. We do not see any reason as to why any of the participating State should not abide by the resolution of its respective Government in pursuance whereunto the NCRPB Act has come into force. We are constrained to make these observations owing to the plea in the counter affidavits of some of the States, of land being a State subject. We remind the said States that having consented to be regulated by the NCRPB law, it is now not open to them to renege therefrom and to contend that land is a State subject. The States should not forget that they shall also be victims of the havoc resulting from violations of the Regional Plan and anarchy in development.

18. We accordingly dispose of this petition,

A. by directing the NCRPB:

- (i) to monitor and be vigilant of the developments at site in the NCR and also in preparation of the Sub-Regional Plans and the Master Plans of the towns falling in the NCR;
- (ii) to immediately, upon finding any violations thereof, take action under Section 29(1) of the Act;
- (iii) to regularly, from time to time, keep the Central Government informed of the violations if any of the Regional Plan;

B. by directing the Central Government to also stay abreast of the functions of the NCRPB and to, if finds NCRPB unable to fulfill its functions and purpose, dissolve the same and take over its functions and ensure compliance of the Regional Plan;

C. by imploring the State Governments to, forgetting legalese and technicalities, ensure that the purpose for which the NCRPB was created is fulfilled in letter and spirit by ensuring the developments in the respective sub-regions of the NCR are in accordance with the Regional Plan and by fully cooperating with the NCRPB in this respect.

No costs.”

In view of the above observations of Hon'ble the Delhi High Court, the present petition is premature and it is not shown by the petitioner as to whether he has approached the NCRP Board. He, in fact, has filed an omnibus petition seeking quashing of the various Development Plans. He is

in the circumstances liable to first approach the State and its authorities pointing out the specific violations, if any, of the NCRPB Act, besides, also approach the NCRP Board to enforce the provisions of the NCRPB Act. Learned counsel for the petitioner only made a mention to a letter dated 17.02.2015 (Annexure P-21) which is addressed to the Union Development Minister, Govt. of India and Chairman NCRP Board; besides, the Chief Ministers of Uttar Pradesh, Rajasthan, Haryana and Delhi for complying with the aforesaid judgment of the Delhi High Court dated 30.09.2014. However, the violations specific to the State of Haryana in the Sub Regional Plans are not mentioned. The petitioner, in the circumstances, has an alternative remedy of pursuing his case before the NCRP Board for which directions have already been issued by Hon'ble the Delhi High Court.

In the above circumstances, the present writ petition is premature and is accordingly, dismissed. The question of *locus standi* of the petitioner to file a Public Interest Litigation in accordance with the Rules is left open.

(S.S.SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

January 10, 2017
mohan

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No