

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

**CWP No.7238 of 2016 (O&M)
Date of decision:27.01.2017**

Mahesh Kumar

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Mukesh Rao, Advocate
for the petitioner.

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

Mr. Kuldeep Tiwari, Advocate
for respondent No.4.

Mr. Surinder Mohan Shrama, Advocate
for respondent No.6.

AMIT RAWAL J. (Oral)

In compliance of the order dated 24.01.2017, Mr. Arvind Balyan, Executive Officer, Municipal Corporation Ambala along with Mr. Manoj Yadav, Executive Officer, Municipal Council, Rewari is present in the Court today.

This Court, vide order dated 24.01.2017, had ordered for de-sealing of the premises but with a rider that no commercial activity shall be done in the premises on account of the fact that the present Executive Officer on a query raised by this Court to ascertain whether there was any order of sealing or not, the answer was in 'negative'.

The then Executive Officer now posted in Municipal Council,

Ambala has shown remorse in the absence of any order of sealing, much less any enquiry being conducted, he just complied with the order dated 04.09.2016 of the SDM which was in pursuance to the letter issued by the Haryana Human Rights Commission.

Mr. Mukesh Rao, learned counsel for the petitioner has relied upon the policy dated 04.08.2016 (Annexure P-23) to allege that his factory falls within the Category 'C' which is permissible in the area. He has also drawn the attention of this court to the site plan, Annexure P-20 to contend that many other industrial activities are being done in and around property of the petitioner.

Mr. Kuldeep Tiwari, learned counsel appearing on behalf of respondent No.4 submits that the commercial activities are not permissible as the petitioner is indulging into manufacturing of copper utensils. No doubt, Haryana State Pollution Control Board has issued 'No Objection Certificate'/green chit but there is no certificate issued by the Water Pollution Board as in the manufacturing process, there is likelihood of use of water which is being drained into drainage without treating the same. He further submits that the matter with regard to new policy can be pondered upon, much less looked into, if the petitioner establishes that he is falling in any of the categorizations.

Since this Court had already prevented non-commercial activity after de-sealing of the premises, I deem it appropriate to dispose of the present writ petition with a direction to the Municipal Committee to decide the case of the petitioner by treating the entire writ petition as representation

and after affording effective opportunity to the parties take a decision thereon by passing a speaking order within a period of two months from the date of receipt of a certified copy of this order. The Executive Officer shall be at liberty to call upon the petitioner with regard to issuance of certificates by the Air Pollution/Water Pollution Control Board or other authorities if need be. The complainant is also at liberty to participate in the proceedings, in essence, the Executive Officer can also call upon the complainant to assist him for the purpose of adjudication.

Resultantly, the writ petition stands disposed of.

This order shall not empower respondent no.4 to exercise the power of sealing in case not vested in them by virtue of Municipal Act.

(AMIT RAWAL)
JUDGE

January 27, 2017
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No