

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

(110)

CWP-4213-2017

Decided on: March 08, 2017.

**Champion Photostat Industrial Corporation through its proprietor
Jai Ashok Malik**

.... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Vinay Pandey, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

Petitioner is aggrieved by the communication Annexure P-6 dated 15.09.2016 rejecting the application Annexure P-1 for import of 1500 used digital multifunction devices.

Learned counsel for the petitioner has submitted that application of the petitioner has been arbitrarily rejected without assigning any reason and without giving a fair opportunity to the petitioner to explain that he is eligible and entitled for the grant of licence under the Foreign Trade (Development and Regulation) Act, 1992.

Learned counsel for the petitioner has further submitted that no parameters or guidelines have been laid down for selection as such the entire process will be vitiated being violative of Articles 14 and 19 (1) (g) of the Constitution of India.

I have heard learned counsel for the petitioner and I am of the opinion that the grant of licence in the present case is governed by the provisions of Section 9 and the other rules framed under the Foreign Trade (Development and Regulation) Act, 1992. Section 9 (5) of the said Act provides that an appeal against an order refusing to grant licence as per

provisions of Section 15 of the Act would lie before a competent authority mentioned in Section 15 (1) (a) (b) of the Act.

It will be expedient, in the interest of justice, in case, the petitioner is relegated to avail the alternative remedy of filing an appeal within the limitation of 45 days after the decision of refusal of grant of licence is passed. In the present case, the decision of the Committee qua the petitioner, has not been specifically issued or communicated to the petitioner as such and it is claimed by the petitioner that only communication Annexure P-6 has come to the knowledge of the petitioner from internet.

In view of said circumstances, this writ petition is disposed of as not maintainable with liberty to the petitioner to file an appeal before the competent Appellate Authority within a period of 45 days challenging the rejection of the application for grant of licence of import of 1500 used digital multifunction printer and copying machines. In case, any such appeal is filed within a period of 45 days from today, the same would be entertained by the Appellate Authority. It will be open to the petitioner to secure copy of the order rejecting the application. If there is no specific order passed qua the petitioner, it will be open to the petitioner to challenge Annexure P-6 within above said period.

It is expected that in case the appeal is filed within a period of 45 days, the same will be decided expeditiously by giving fair opportunity to the petitioner.

March 08, 2017
harsha

(M.M.S. BEDI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No