

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

**LPA No.2247 of 2017 (O&M)**

**Date of Decision : 24.11.2017**

Gram Panchayat Village Nurpur Bet  
and others

....Appellants

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE ANIL KSHETARPAL

...

Present: Mr.P.S.Khurana, Advocate  
for the appellants.

...

**MAHESH GROVER, J.** (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 22.05.2017.

The appellants are Gram Panchayats of various villages and question the action of the Municipal Corporation, Ludhiana to set up a “Carcass Utilization Plant” for which it has purchased land in the vicinity of the appellants.

The arguments that have been raised before us can be enumerated as follows :-

i) That no clearances have been obtained from the Punjab Pollution Control Board and the learned Single Judge has noticed this fact in affirmation erroneously in the absence of any material on record.

- ii) That the Municipal Corporation in terms of Section 25-a and Section 4 of the Municipal Corporation Act, 1976 can function only within the prescribed limits as notified by the process of law.
- iii) That there is no methodology prescribed in the Municipal Corporation Act for disposal of dead animals and thus the setting up of a plant without any proper resolution authorising the Corporation to do so cannot be permitted.
- iv) That the interest of the citizens, their rights and action of the Corporation has to be maintained which according to the appellants is being disturbed by setting up the plant.

We have heard the learned counsel for the appellants at some length.

In so far as the first argument raised before us regarding the clearances obtained from the competent authorities is concerned, we are of the opinion that the appellants failed to implead the Punjab Pollution Control Board as a necessary party to the petition which was essential to understand whether any clearances have been obtained by the Corporation or not. We find on record an application submitted to the Punjab Pollution Control Board for the purpose, but no material has been pointed out by the appellants to show the clearances granted by the Board. Be that as it may, we make it clear that setting up of a

plant of the kind indicated in the proceedings shall be permitted only after requisite clearances have been obtained from the competent authorities. The Punjab Pollution Control Board, though not a party before us, is, therefore, mandated to ensure proper compliance. Likewise, the State authorities are also directed to ensure that the change of land use is in place. This effectively takes care of latent public interest in the petition.

In so far as the second objection of the appellants qua the Corporation being permitted to confine only within its limits, there would be no quarrel with it. But strangely the appellants themselves have not brought on record any notification in order to enable us to understand whether the proposed plant being set up is within the boundary confines of the Corporation. This objection, therefore, cannot be appreciated and is thus discarded.

It is next contended that there is no methodology prescribed for disposal of dead bodies of animals. We are of the opinion that disposal of bodies of dead animals is indeed a very serious issue confronting the urban as also the rural bodies. If an attempt is being made by the Corporation to set up a plant on scientific lines, we do not see any reason why there should be any objection by the appellants particularly when the villagers are still persisting with age old traditions of having a Hadda Rori in the vicinity of the village to dispose of bodies of dead animals

which is neither scientific nor hygienic. Even if the methodology as such is not prescribed it has to be understood that there is an acute necessity of dealing with this situation of carcass disposal which cannot be left in the open. The attempt of the Corporation to set up a plant by adopting modern techniques thus cannot be faulted with or discouraged.

Lastly, it has been argued that the rights of the individuals have to be balanced with the acts of the State. Such an argument has to be discarded outright in view of the settled proposition of law that private interest has to yield to public interest. We have noticed that disposal of carcass of dead animals is certainly a public interest. The carcass if permitted to rot in the open are obviously going to be hazardous to the health of the inhabitants living in the vicinity. The action of the Corporation, therefore, has an element of advancing a public interest. Any action taken by them in this regard cannot be thwarted or attenuated on such considerations as the ones advanced before us. A feeble attempt has been made by the appellants to state in continuation of the second argument that the Corporation has to function within its boundaries confined. The Municipal Corporation, which is a body corporate and a legal entity, is fully empowered to go beyond its limits and purchase land. If the land has been purchased for a particular purpose then they are entitled

to put it to use subject to other constraints of law. We, therefore, do not find any ground to interfere. However, delay of 49 days in filing and 58 days in re-filing the appeal is condoned for the reasons mentioned in the applications.

Appeal dismissed.

(MAHESH GROVER)  
JUDGE

24.11.2017  
dss

(ANIL KSHETARPAL)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |