

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

**CWP No.10943 of 2018(O&M)
Date of decision : 31.5.2018**

The Goyal Cooperative L & C Society Ltd.

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Ashish Aggarwal, Senior Advocate with
Mr.Anupam Gupta and Mr. Jagjot Singh,
Advocates for the petitioner.
Mr.Deepak Balyan, Addl. A.G., Haryana.
Mr.Jitender Nagpal, Advocate for respondent Nos.
4 and 5.

AJAY KUMAR MITTAL, ACJ.

A challenge in this writ petition filed under Articles 226/227 of the Constitution of India is for quashing of order dated 9.4.2018, Annexure P.16, passed by respondent No.2 whereby the tender allotted to the petitioner vide work order dated 1.12.2017, Annexure P.4 issued by Municipal Council, Hodal pursuant to the notice inviting e-tender, Annexure No.2, for sanitation and cleanliness work of the

roads, drains and collecting waste and disposal in wards No.1 to 16 of Municipal Council, Hodal has been cancelled.

2. Learned counsel for the petitioner inter-alia contended that the cancellation of the agreement vide order dated 9.4.2018, Annexure p.16 was without affording an opportunity of personal hearing to the petitioner. Reliance was placed upon judgment of Division Bench of this Court in **M/s Brij Textiles, Delhi v. State of Punjab** 2018 (2) RCR (Civil) 25 to urge that the principles of natural justice were required to be followed before passing the cancellation order. It was submitted that in the inquiry which was conducted on 19.1.2018 by the Sub Divisional Officer, Hodal was at the back of the petitioner in which the petitioner was never associated.

3. Written statement on behalf of respondent Nos.4 and 5 has been filed. Undisputedly, no opportunity of personal hearing was afforded to the petitioner. This fact stands admitted in para No.4 of the preliminary submissions/objections of the written statement which is reproduced as under:

“That the respondent No.2 Deputy Commissioner in exercise of his powers under Section 246 of the Act has cancelled/suspended and the said order has been confirmed by the learned Commissioner.

The provisions of Sections 246 and 249 of the Act do not require providing of an opportunity of hearing to a party, who may likely to be affected by passing of the order. The only requirement to exercise the power under Section 246 of the Act is that the Deputy Commissioner should record his satisfaction that the facts forming the basis of an order did actually exist and is contrary to the interests of the public or likely to cause waste or damage of municipal funds or property."

4. In view of the above, learned State counsel for respondents No.1 to 3 submitted that the order dated 9.4.2018, Annexure P.16, which has been impugned in this writ petition stands withdrawn.

5. While declaring the order dated 9.4.2018, Annexure P.16 as inoperative in view of the submissions of learned State counsel for respondent Nos.1 to 3, we permit respondent Nos.1 to 3 to pass a fresh order after affording an opportunity of personal hearing to the petitioner and by passing a speaking order, in accordance with law.

6. Needless to say that anything expressed hereinabove shall not be taken to be an expression of opinion on the merits of the controversy.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

May 31, 2018
KD

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking / reasoned	Yes / No
Whether Reportable	Yes / No