

Gurbax Singh
2018.04.21 10:45

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

**CWP No. 17973 of 2015
Date of decision: 02.04.2018**

M/s Khan Plastic Industry, Ward No.14, Near Railway Crossing, Sirhind, Tehsil and District Fatehgarh Sahib through its proprietor Manak Ali son of Rulda Khan, r/o H.No. 2503, Ward No.14, Brahman Majra, Sirhind, District Fatehgarh Sahib.

.....Petitioner

Vs.

Punjab Pollution Control Board and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Ms. Nitika Bansal, Advocate for Mr. Nitin Kaushal, Advocate
for respondent Nos. 1 to 3

Mr. R.S. Khosla, Senior Advocate with, Mr. Sarvesh Malik,
Advocate for respondent no.4.

Ms. Meena Bansal, Advocate for respondent Nos. 5 & 6.

Mr. Gitish Bhardwaj, Advocate for respondent No.7.

Ajay Kumar Mittal,J.

1. Prayer in this petition filed under Articles 226 and 227 of the Constitution of India is for quashing the order dated 08.06.2015, Annexure P.10, passed by the respondent Nos. 2 and 3 vide which the petitioner industry has been directed to close its unit. Direction has also been sought to respondent No.4 to decide the case of the petitioner regarding permission to run the industry within some stipulated period as the same is pending since 04.08.2014. Further prayer has been made for staying the operation of the

impugned order dated 08.06.2015, Annexure P.10 during the pendency of the petition.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner is a small scale industry installed in the year 1994. It is being run through its proprietor Manak Ali. It is dealing in manufacturing of plastic Gitta. The petitioner started its unit after proper verification and fulfilled required conditions under the law. It got No Objection Certificate dated 01.09.1994 from Municipal Committee, Sirhind, Fatehgarh Sahib before installing industrial unit and for getting electric connection. The petitioner also got installed Air and Water Pollution Control Equipment in its premises. According to the petitioner, it is not causing air or water pollution of any kind in the area. The premises of the petitioner were inspected and checked by respondent Nos. 2 and 3 and thereafter report "A feasibility report" was issued. The petitioner was required to obtain consent of respondent Nos. 2 and 3 for running the industry. The petitioner applied for the same which was granted till 30.11.2012 which was renewed till 30.06.2014. Respondent No.7, who is a resident of the same Mohalla started filing false applications against the respondent before respondent Nos. 2 and 3 by using his influence. He even alleged that the petitioner was causing pollution at the spot. The petitioner raised its plea before respondent Nos. 2 and 3 to the effect that the industry was installed in the month of July, 1994 after obtaining NOC. There were lots of industries near the industry of the petitioner. The house of respondent No.7 was at a distance of about 700 feet from the petitioner industry. The nearby inhabitants had no objection qua the industry of the petitioner. To the utter surprise of the petitioner, respondent Nos. 2 and 3 under the influence of respondent No.7 issued a letter dated 12.11.2014, Annexure P.7, to the petitioner and had given

the decision for shifting of the petitioner-industry on the ground that it had failed to submit permission from the competent authority regarding continuance at the existing site for further period. Thereafter, the petitioner visited respondent Nos. 2 and 3 and disclosed to them that it had earlier applied for necessary permission to be given by District Town Planner, District Management Complex, Fatehgarh Sahib, who further directed the petitioner to seek permission from the competent authority-GMADA. Accordingly, the petitioner applied for the said permission which is pending in the office of CA-GMADA, PUDA Bhawan, Mohali. Instead of considering the above facts, respondent Nos. 2 and 3 issued the impugned direction vide letter dated 08.06.2015, Annexure P.10 to the petitioner directing it to dismantle and remove all outlets of industry. Further, direction has been issued to respondent Nos. 5 & 6 to disconnect the supply of electricity available to the petitioner. According to the petitioner, respondent No.8 is also running industry at the similar position and respondent No.2 has granted the permission to respondent No.8 till 30.09.2018 to run the industry. The petitioner asserts that there are about 15 to 20 industries of similar nature in the area but the petitioner has been made scapegoat, though it had applied for permission way back on 04.08.2014. According to the petitioner, the plastic factory is a source of its income. The petitioner is continuously representing to respondent No.4 to grant the required permission to run industry but no action has been taken so far. Hence the instant petition by the petitioner.

3. In the short reply filed on behalf of respondent Nos. 1 to 3, it has been inter alia stated that the petitioner industry was located in residential area and since, a number of complaints were being filed by the residents of the locality the officials of the respondent authorities visited the industry on 30.09.2014. It was found that the industry had not provided adequate water

pollution control measures and the air pollution control devices were not being operated. During a personal hearing on 10.11.2014, the proprietor of the industry assured that the industry would dismantle the soakage pit and would apply for renewal for consent under the relevant Act. During inspection on 13.05.2015, again it was found that even though the industry was not in operation, no steps had been taken for shifting it from the existing premises to some other place. It was further noticed that the industry had been shut down temporarily and it failed to obtain the necessary consent and permissions to continue its operation. In view of the above, vide order dated 08.06.2015, Annexure P.10, the respondents directed the industry to close down immediately. It was further directed that no process shall be re-started without obtaining the necessary consent.

4. In the short reply filed on behalf of respondent No.4, it has been inter alia stated that permission to shift its industrial unit by the petitioner cannot be granted as the unit has already been sealed by respondent No.3 i.e. Punjab Pollution Control Board. The petitioner had permission to run its industry unit only till 30.06.2014 which period has already expired. As per report dated 09.07.2015 (Annexure R-4/1), respondent No.3 has sealed this industrial unit and disconnected its electricity connection.

5. A written statement has also been filed by respondent No.7- Jasmer Singh wherein it has been inter alia stated that sufficient time was given to the petitioner to make the necessary arrangement but it failed to follow even a single norm and continued to run the factory on the same conditions and resultantly the industry was directed to close its operation. It was running in residential area without any clearance from any authority. Various complaints had been received that the industry had been causing harm and damage to the health of the nearby residents.

6. We have heard the learned counsel for the parties and perused the record.

7. A perusal of the impugned order dated 08.06.2015, Annexure P.10 shows that it was mandatory on the part of the petitioner-industry to obtain consent of the Punjab Pollution Control Board to establish/operate under Sections 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 (in short, “the 1974 Act”) as the unit was discharging effluents from its premises. It was also mandatory to provide adequate and appropriate waste water treatment facilities to ensure that concentration of various pollutants in the waste water discharged by the industry conforms to the permissible limits prescribed by the Board. The petitioner industry was granted consent to operate upto 30.11.2012 subject to certain conditions. A complaint against the pollution caused by the petitioner-industry was received from Jasmer Singh on 18.09.2012. The petitioner was called for personal hearing before the Board. The industry was granted consent to operate upto 30.06.2014 with the condition that it shall submit permission from the competent authority regarding continuance at the existing site for further period under Section 79 of the Punjab Regional and Town Planning Development Act, 1995 (in short, “the 1995 Act”). After hearing the officers of the Board and representative of the petitioner-industry, it was found that the industry had failed to submit permission under Section 79 of the 1995 Act from the competent authority regarding continuance at the existing site of the unit. The Member Secretary of the Board decided that the petitioner industry shall take necessary steps to shift its unit from its existing premises to some other suitable site conforming to the set guidelines of the Board, within a period of six months. When the petitioner industry failed to comply with the relevant statutory provisions, the Member Secretary, Punjab Pollution Control Board, in exercise of powers conferred

upon him under Section 33-A of the 1974 Act, ordered that it was a fit case to order closure of the industry. It was further directed that the industry shall dismantle and remove all outlets and stop forthwith discharging its waste water into sewer or through any other mode. The Punjab State Power Corporation Limited was also directed to disconnect the supply of electricity available to the hot mix plant. After considering the overall facts and circumstances of the case, the respondent authorities decided to pass the impugned order dated 08.06.2015, Annexure P.10 directing to close the petitioner-industry. Learned counsel for the petitioner has not been able to produce any material on record or even before this Court to substantiate his claim or to controvert the findings recorded by the authorities below. Consequently finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

April 02, 2018
‘gs’
Whether speaking/reasoned
Whether reportable

(Anupinder Singh Grewal)
Judge
Yes
Yes