

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

CWP No.14706 of 2018 (O&M)

Date of Decision: 31.05.2018

M/s Glamour Advertising

. . . Petitioner

Versus

Municipal Corporation, Gurugram and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Akshay Singh, Advocate and
Mr. Rajat Mor, Advocate
for the petitioner.

Avneesh Jhingan, J. (Oral)

The present petition has been filed for quashing of letters dated 08.05.2018 and 09.05.2018 (Annexures P-2 and P-3).

The respondents are Municipal Corporation, Gurugram and Joint Commissioner-IV, Municipal Corporation, Gurugram.

The petitioner was granted permission to display Outdoor Media Devices (for short 'OMD') by the Municipal Corporation, Gurugram, vide memo dated 01.02.2018. The permission was withdrawn vide memo dated 08.05.2018 (Annexure P-2), in view of Court's order in M/s Kusha Advertising Private Limited Vs. M/s Aprabhoomi etc., whereby the civil Court had restrained from raising/erecting any kind of additional temporary structure above/beyond the parapet of the designed

CWP No.14706 of 2018 (O&M)

space. In view of the order of Civil Court, the petitioner was directed to remove the OMD within 24 hours of the receipt of the letter. Another letter dated 09.05.2018 (Annexure P-3) was issued to the petitioner to ensure the compliance of the letter dated 08.05.2018. It was further stated in the notice that the petitioner had applied for permission of the Wall Wrap but instead has raised structure on the roof top belying authorities and committed willful defiance and conscious misrepresentation of the facts. The structure so built, was illegal as it was not permitted as per Haryana Municipal Corporation Advertisement Bye-laws dated 28.03.2018.

Aggrieved of this, the present petition has been filed.

Before proceeding further, it would be pertinent to mention here that there is a dispute going on in Civil Court between M/s Aprabhoomi, owner of the building and other advertising agency namely M/s Kusha Advertising Private limited. The petitioner has also been impleaded as a party in the said suit. There are factual disputes to be determined in the present case with regard to the space given for advertisement to the petitioner and to M/s Kusha Advertising Private Limited. Moreover, as per notice dated 09.05.2018 (P-3), the petitioner applied for permission of wall wrap whereas actually it raised the structure on the rooftop of the building, which was contrary to 2018 Bye-laws.

As per Bye-law no. 21 of the Haryana Municipal Corporation Advertisement Bye-laws, 2016, remedy of appeal is available to any person whose rights are affected by the decision of the Commissioner or

CWP No.14706 of 2018 (O&M)

an officer nominated by him. The appeal lies to the Divisional Commissioner of the Division. 2016 Bye-laws were repealed and 2018 Bye-laws came into force w.e.f. 28.03.2018. 2018 Bye-laws also provide the remedy of appeal. Clause 22 is quoted below:-

“Any person, whose rights are affected by a decision of Commissioner or an officer authorized by him in terms of or for the purpose of these bye-laws, may appeal against that decision to the Division Commissioner of the Division.”

The petitioner never deemed appropriate to mention in the writ petition that remedy of appeal was available to it under the Bye-laws.

Be that as it may, since alternative remedy of appeal is available to the petitioner and factual disputes are involved and the matter is already pending before the Civil Court, no ground for interference, under Article 226/227 of the Constitution of India, is made out.

Writ petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

May 31, 2018
sachin

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No