

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-1712-2018

Date of Decision: 25.1.2018

Dr. Rajesh Kumar Jain

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Keshav Pratap Singh, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondents No.1 to 3 for allowing his application/representation (Annexure P-3 Colly) for the provision of gate/passage from the 30 meter road as had been allowed to respondent No.5. Further, a writ of certiorari has been sought for quashing the permission dated 16.2.2017 (Annexure P-6) regarding the approval of entry point near plot No. 1136-P.

2. State of Haryana had issued policies dated 21.7.2008 and 11.8.2016 (Annexure P-1 Colly) for the running and regularization of Nursing Homes in the residential premises. As per the said policies, the permission for running the nursing home in the residential premises would be granted for only those which have a minimum size of 350 square yards as

earlier the same was for 500 square yards. The petitioner being eligible as per the policy dated 21.7.2008, applied for permission for running the nursing home in the residential premises on 5.2.2010. Respondent No.3 vide memo dated 15.2.2012 (Annexure P-2) granted the permission to the petitioner for running the nursing home in plot No. 1499-P, Sector 46, Gurgaon. Thereafter, the petitioner moved an application dated 19.12.2016 along with a complaint dated 7.2.2017 (Annexure P-3 Colly) before respondent No.2 and at CM Window, Gurgaon for grant of passage from the 30 meter road. The Nodal Officer-cum-SDE vide letter dated 2.2.2017 (Annexure P-4) recommended to the Executive Engineer, HUDA to provide an entry from the 30 meter road to the service road near plot No. 1498-P, Sector 46, Gurgaon and further exit from the service road to the sector road near plot No. 3117-P, Sector 46, Gurgaon. In pursuance thereto, respondent No.3 vide memo dated 27.2.2017 (Annexure P-5) asked the District Town Planner, Gurgaon to make necessary provision in the master plan sector roads of Sector 46, Gurgaon. However, respondents No.1 to 3 have allowed metalled passage at House No. 1035-SP and 1024-SP, Sector 46, Gurgaon. Since the metalled passage was not part of the original master plan and permission regarding the approval of the entry point near plot No. 1136 was given by respondent No.2 to respondent No.3 vide letter dated 16.2.2017 (Annexure P-6). As per the photographs (Annexure P-7) and layout plan (Annexure P-8), the additional entry point/gate has been made only on the request of respondent No.5 who is a property dealer and President of the Resident Welfare Association. In the said sector, Amity International School is also located. Though there is no permission for allowing the opening of additional entry/exit point in front of the school, but two huge

gates have been installed connecting the inner road in front of the school with the main 30 meter road by making a passage as is discernible from the photographs, Annexure P-9. However, till date, no action has been taken on the application/complaint (Annexure P-3 Colly) moved by the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a representation dated 19.12.2016 to respondent No.2 and also sent a complaint dated 7.2.2017 (Annexure P-3 Colly) on the Chief Minister Window, Gurgaon, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the representation/complaint dated 19.12.2016/7.2.2017 (Annexure P-3 Colly), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

January 25, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes