

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

CWP No. 5544 of 2016

Date of decision:- 25.05.2018

Nursing Home Association, Jalandhar

---Petitioner.

Versus

State of Punjab and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Puneet Sharma, Advocate,
for the petitioner.

Mr. R. B.S. Chahal, Addl. A. G. Punjab.

Mr. Sanjeev Soni, Advocate,
for respondent Nos. 2 and 3.

AVNEESH JHINGAN J. (Oral)

The present writ petition has been filed by Nursing Home Association, Jalandhar, for quashing of show cause notices dated 09.11.2015 and 12.02.2016/15.02.2016 (**Annexure P21 and P23**). The grievance of the petitioner-Association is that the corporation without deciding the issue regarding violation made by the Nursing Homes is taking coercive action.

Respondent No.3 has filed short reply by way of affidavit of Parampal Singh, Municipal Town Planner, Municipal Cooperation, Jalandhar. The relevant portion of the said reply is as under:

“That all the owners of the Nursing Homes/Hospitals have filed their detailed reply and thereafter, the owners were given personal hearings. The municipal corporation after considering the replies and documents supplied by the respective owners has categorized all the

nursing homes/hospitals in five categories i.e.

- (1) The Nursing Home/Hospitals constructed prior to 23.04.1997 (before the implementation of Model Building Bye-laws);*
- (2) The Nursing Homes/ Hospitals constructed between the period 24.04.1997 until 16.07.2004 (when the commercial & Nursing Homes Building Bye -laws were same)*
- (3) The Nursing Home/Hospitals constructed between the period 17.07.2004 to 07.03.2011 (when the Government has issued Punjab Municipal Corporation/Councils Building Bye Laws Amendment, 2004 on 16.07.2004 and modification in this amendment vide Memo Dated 15.06.2005 with regard to Multiplexes & Nursing Homes/Hospitals); [true typed copy of the memo dated 16.07.2004 & memo dated 15.06.2005 are annexed as Annexure R-3/1 Collectively.]*
- (4) The Nursing Homes/Hospitals constructed after 07.03.2011 till date (on 07.03.2011 the Government has issued Notification for Building Bye Laws (P-12) for Municipal Corporation Jalandhar wherein category of Nursing Home/Hospital Buildings have been specified);*
- (5) The Nursing Home/Hospitals constructed in violation of Town Planning Scheme/Development Scheme without getting the approval of change of land use from competent authority;*

7. That all 137 owners of Nursing Homes/Hospitals have submitted their replies alongwith the record. The personal hearing was also given to each and every owner of the

Nursing Home/Hospital. Now, the staff of the Municipal Corporation is verifying all the records supplied by the respective owner of Nursing Home/Hospital and will co-relate with spot verification and thereafter, the appropriate action will be taken in accordance with law...”

The petitioner filed the writ petition being aggrieved of the show cause notices. Respondent No.3 in the reply has specifically stated that Nursing Homes have filed the detailed replies and they have been given personal hearing also. The Municipal Corporation categorized all Nursing Homes/Hospitals in five categories. After personal hearing, the staff of Municipal Cooperation is verifying the record supplied and co-relating the same with spot verification. It is only thereafter that an appropriate action will be taken in accordance with law.

In view of the submissions made in the reply, no grievance of the petitioner-association survives. The Municipal Corporation is not taking any action as on date. It would be only after verifying the record and co-relating the same with spot verification that an appropriate action, if so required, would be taken in accordance with law. In case there is any grievance against the action taken by the Municipal Corporation, needless to say that the petitioner would be at liberty to avail the remedies available to it.

Accordingly, present writ petition is disposed of.

25.05.2018

Riya Grover

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No