

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

CRM-M-1703-2015 (O&M)

Date of decision-29.01.2019

M/S UNIVERSAL INFRASTRUCTURE AND ORS

...Petitioners

Vs.

PUNJAB POLLUTION CONTROL BOARD AND ANR

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: None for the petitioner(s).

Mr. Tarun Kumar, Advocate for

Mr. Nitin Kaushal, Advocate for respondent No.1.

MANOJ BAJAJ, J.

M/s Universal Infrastructure and others have brought this petition under Section 482 of Code of Criminal Procedure for quashing of the complaint No.10 dated 16.04.2014/22.04.2014 in case titled as “*Punjab Pollution Control Board Vs. M/s Universal Infrastructure and others*” under Sections 15 and 16 of Environment (Protection) Act, 1986 as well as summoning order dated 16.04.2014 (Annexure P-8), whereby petitioners/accused were summoned. The complaint has highlighted the violations committed by the petitioners for raising construction of the residential project which is contained in paragraph 7 and 8.

The petition came up for hearing on 19.01.2015 and the following order was passed:-

“Quashing of complaint under Sections 15, 16 & 19 of the Environment (Protection) Act, 1986 (for short 'the Act), has been prayed for.

Counsel for the petitioner, inter alia, argues that No Objection Certificate was granted to the petitioner on 18.12.2013 vide Annexure P5 and that there has not been any violation of notification dated 14.9.2006 by starting construction activity without obtaining environment clearance under the EIA Notification dated 14.9.2006.

Counsel for the petitioner is directed to satisfy this Court that the consent given vide Annexure P5 is still subsisting there being no violation of NOC as per condition 1 of the Annexure P5.

Adjourned to 27.1.2015.”

However, compliance of the same remains pending as nothing was brought on record to substantiate the stand that the clearance/consent given vide Annexure P-5 still subsists.

On 15.05.2015, it was submitted before this Court that the petitioners have put in appearance before the trial Court and have been granted bail. Notice of motion was issued and the trial Court was directed not to take any effective proceedings on the next date fixed. Thereafter, the matter kept on adjourning on one pretext or the other.

CRM-964-2017 was brought on behalf of respondent No.1 for vacation of stay order dated 15.05.2015 on the ground that the stand of the petitioners projected on the said date is false and misleading. The application is supported by the zimni orders which indicate that the accused have neither appeared nor applied for bail. The order dated 02.08.2016 passed by ACJM,

SAS Nagar Mohali, reads as under:-

“Counsel for complainant is present, however none has appeared on behalf of accused. There is an order of Hon'ble Punjab & Haryana High Court that personal appearance of accused is exempted except on the dates, which are necessary. The accused have not even applied for bail nor submitted bail bonds. Now, notice to accused be issued for 05.10.2016.”

On 18.01.2017, it was ordered that the CRM-964-2017 be heard with the main case. In the meantime, respondent No.1 had filed reply dated 08.11.2017 which contains particulars of notification which was allegedly violated by the petitioners. As per the notification, environmental clearance is necessary before commencing any construction activity or preparation at the land at the site. According to the stand of respondent No.1, construction activity carried by petitioners is without compliance of Clause 6 of the said notification dated 14.09.2006. Further in para 7 of the reply, it is highlighted that construction of the Group Housing Project is without any prior requisite environmental clearances.

It is evident that the petitioners have misled this Court and obtained the interim order of stay of the proceedings as is evident from the order dated 02.08.2016 recorded by the trial Court. Besides, the first order dated 19.01.2015 was never complied with to bring on record the material indicating that consent allegedly given vide Annexure P-5 still subsists. The stand adopted by the petitioners regarding Annexure P-5 is disputed by respondent No.1. Besides, there is complete lack of interest on the part of the

petitioners as no-one has appeared after 10.11.2017.

In view of the above, no indulgence can be shown in this petition and the same is dismissed and miscellaneous application (CRM-964-2017) stands disposed off.

29.01.2019

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(MANOJ BAJAJ)
JUDGE

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