

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

**CWP-17410-2017(O&M)
Date of decision-29.01.2019**

Shri Gopal Gau Sewa Samiti

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Naresh Kaushik, Advocate
for the petitioner.

Ms. Maloo Chahal, D.A.G., Punjab
for respondent No.1.

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

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of writ of mandamus/certiorari for setting aside order dated 14.07.2017 (Annexure P-1) whereby the contract of the petitioner for management of Gaushala has been cancelled and further directing the respondents to allow the petitioner to manage the Devki Nandan Municipal Gaushala, Sahibjada Ajit Singh Nagar.

Learned counsel for the petitioner submits that a lease agreement was executed between the parties on 14.11.2013 (Annexure P-3) for a period of five years and the term of the agreement was to complete on 04.11.2018. He further contends that as per Clause 30 of the agreement, party No.1, i.e. Municipal Corporation shall have the power to terminate the

contract by giving one month's notice if the work of party No.2 (petitioner) is not found satisfactory or is found to be in violation of any of the conditions mentioned in the agreement. It is asserted that the agreement had been revoked by the Municipal Corporation before completion of five years and without giving prior one month's notice which is contrary to Clause 30 of the agreement.

Learned State counsel submits that State is not a contesting respondent and therefore, reply on behalf of respondent No.1 is not required to be filed in the matter.

Learned counsel for respondent Nos.2 and 3 states that the contract of maintenance of the Devki Nandan Gaushala was given to the petitioner Society vide letter dated 04.08.2017 (Annexure R2/2) but from the very beginning, working of the petitioner-Society was not found satisfactory. On various occasions the inspection was carried out but always deficiencies were found in the working of the petitioner-society and despite issuance of several show cause notices on every inspection, the petitioner-society did not make any improvement in its working, therefore, the matter was taken up in the Municipal Corporation House and the Municipal Corporation vide its resolution bearing No.226 dated 03.04.2017 (Annexure P-6) had resolved to terminate the contract. Thereafter, the charge of the Gaushala was taken from the petitioner-society and fresh expression of interest was called from the NGOs/Charitable Societies. Now, the operation and maintenance of Devki Nandan Gaushala has been handed over to Gauri Shankar Seva Dal, Chandigarh.

Heard.

The agreement dated 14.11.2013 (Annexure P-3) stipulates that it was the sole duty of the petitioner-society to catch the stray cows. The relevant clauses of the agreement (Annexure P-3) reads as under:-

- “15. Party No.1 will provide cattle catcher vehicle to catch to stray cows but the labour required for this purpose will be arranged by party No.2 at its own expenses.*
- 16. Stray cows will be caught under the supervision of employees of party No.1.*
- 17. Party No.1 can at anytime, if it notices any stray cattle in any part of the city, ask the party No.2 to immediately catch them & party No.2 is bound to follow/comply with such directions.”*

The purpose of handing over the operation and maintenance of Devki Nandan Gaushala to the petitioner-society was for the welfare of the cows and to catch the stray cows roaming in the city but in both the counts, the petitioner-society miserably failed and did not abide by the terms and conditions of the agreement. No doubt the agreement was for a period of five years but due to the reason that the petitioner-society was not working satisfactorily therefore, a Management Committee was formed to take care of day-to-day activities of petitioner-society and for accounting the donations received from the public at large. This Management Committee was headed by the Commissioner and Joint Commissioner of Municipal Corporation and veterinary doctors of the animal husbandry department, one SDO, one Chief Secretary Inspector of the Municipal Corporation and six leading businessmen of the area as members. Since the cows were not properly fed by the petitioner-society and no proper arrangement was followed for catching the stray cows, and the petitioner-society was not

performing its duties diligently, a number of show cause notices (Annexures R-2/5 to R-2/8) were issued to improve its working, but the petitioner-society miserably failed to do so. Even the cows were kept in unhygienic conditions. It cannot be said that Clause 30 of the agreement was not complied with. The petitioner-society never raised any objection on the creation of the Management Committee. On 31.01.2016, the petitioner-society was inspected by the staff of Municipal Corporation and it was found that only *toori* (dry fodder) was served and in the manger very nominal green fodder was noticed. It was also found that the rear stores, where the dry fodder had been stored, were not properly cleaned.

On further inquiry, it was revealed that green fodder had not been obtained by the petitioner-society for the past so many days and only dry fodder had been served, therefore, it was decided to deduct an amount of ₹2,62,500/- from the payment of the petitioner-society and the petitioner-society has not even cared to challenge the deduction in any Court of law, meaning thereby, the petitioner-society has admitted its fault.

In view of the above, the Court feels that the aim of the petitioner-society appears to be not to maintain the Gaushala but to make quick money under the garb of running a non-profitable NGO. The impugned order dated 14.07.2017 (Annexure P-1) does not suffer from any infirmity or illegality.

In the light of the above discussion, this Court is of the view that the instant petition is devoid of merits and is accordingly dismissed.

29.01.2019

ps-I

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No