

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

CWP-27125-2019

Date of decision: 25.9.2019

Priya Bansal and others

...Petitioners

Versus

Director, Urban Local Bodies Department-cum- Fire Service, Haryana and
others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.CR Dahiya, Advocate for the petitioners

Mr.Vikrant Pamboo, DAG, Haryana

JITENDRA CHAUHAN, J.

This writ petition under Article 226 of the Constitution of India has been filed for quashing the Notice dated 9.4.2019 (Annexure P-1) issued to petitioner No.1 and all other similar notices by respondent No.2, which are against the provisions of Haryana Fire Service Act, 2009 (for short 'the Act of 2009').

Learned counsel for the petitioners refers to the provisions of Section 2(d) of the Act of 2009 to state that the Deputy Director is the competent authority to inspect the premises, whereas, vide the impugned notice, team of fire brigade department inspected the premises of the petitioners and the notice dated 9.4.2019 (Annexure P-1) was issued by the Assistant Divisional Fire Officer, Municipal Corporation, Gurugram. He further submits that the Municipal Corporation is not the competent authority to seal the premises as is made out from the communication dated

30.8.2019 (Annexure P-5).

On the other hand, the learned State counsel has produced a copy of communication dated 12.2.2014 from the Director, Fire Service, Haryana to all the Commissioners, Municipal Corporations, Deputy Commissioners, Executive Officers/ Secretaries of Municipal Councils/ Committees and the Assistant Divisional Fire Officers/ Fire Station Officers in the State of Haryana and the same is taken on record as Mark 'A'. He submits that as per the said letter, the Director had delegated his powers to all the Commissioners of the Municipal Corporations, Deputy Commissioners, Executive Officers/ Secretaries of Municipal Councils/ Committees and the Assistant Divisional Fire Officers/ Fire Station Officers in the State of Haryana regarding issuance of sanction and NOCs. He further submits that in view of letter Mark 'A', the Commissioner, Municipal Corporation, Gurugram had deputed the Fire Fighting Team to inspect the premises of the petitioners. He further submits that the petitioners were found as violators of the National Building Code (IV) regarding fire equipments and had not taken the certificate of fire safety equipments from the Fire Department, which is a serious offence and any untoward incident might take place.

Heard.

Para 1 of the letter Mark 'A' reads as under:

“1. The Government has notified the Haryana Fire Service Act, 2009 vide notification dated 24.3.2009, as per Section 15 of the Act, **Director or any officer duly authorised by him** is

competent to approve the fire fighting schemes and issue of NOCs, earlier the Director, Urban Local Bodies/ Fire Services delegated the powers regarding issuance of sanction of fire fighting schemes, issuance of NOCs and renewal of NOCs vide letter memo no.2269-2425, dated 18.1.2010.”

(emphasis supplied)

In view of the above, the pleas of the petitioner that Commissioner of the MCG is not the competent authority to seal the premises and the Assistant Divisional Fire Officer is not the competent authority to inspect the premises, are not tenable. The Commissioner, MCG had deputed a team of fire brigade, which inspected the banquet hall/ marriage palaces in the light of fire safety and found that the petitioners had not taken the certificate of fire safety equipment from the fire department nor any arrangements have been made for fire safety, which is a serious offence and any untoward incident may take place and loss of lives and property may occur. The shortfall noticed by the inspected team has potential to ignite the fire, which can cause loss of men and material. Further, as per the letter Mark 'A', the Commissioner, MCG was the competent authority to issue order dated 27.7.2019 (Annexure P-4) for sealing the premises of the petitioners as the same were found to be illegal.

Section 24 of the Act reads as under:-

“24. Appeal and revision.- (1) Any person aggrieved by any notice or order of the competent authority may prefer an appeal against such notice or order to the Director within a period of thirty days from the date of the receipt of such notice or order:

Provided that the Director may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that there was sufficient cause for not filing it within the period specified.

(2) An application for revision shall lie to the Government against the order of the Director confirming, modifying or annulling a notice or an order issued or made under this Act within a period of thirty days from the date of such order:

Provided that the Government may entertain a revision after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.”

In the instant case, the petitioners instead of availing the appropriate remedy provided under Section 24 (ibid) of the Act of 2009, preferred to file the present writ petition before this Court, which is not maintainable being filed at a premature stage.

Consequently, the present writ petition fails and is hereby dismissed.

25.9.2019
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No