

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

CWP No.6327 of 2020

Date of decision: 05.03.2020

M/s Instruments & Chemicals Pvt. Ltd.

.....Petitioner

V/s.

State of Haryana and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Sartaj Singh Gill, Advocate,
for the petitioner.

Sanjay Kumar, J. (Oral)

Challenge in this writ petition is to the order dated 24.02.2020 (Annexure P-19) passed by the Commissioner of the Municipal Corporation, Ambala City, Ambala, in exercise of power under Section 263(A) of the Haryana Municipal Corporation Act, 1994 (for short, 'the Act of 1994'). This order was passed in relation to plot Nos. 4, 5, 6 and 7 situated at Model Town, Ambala City, which allegedly belong to the petitioner. The petitioner also challenges the consequent notice dated 28.02.2020 (Annexure P-20) issued by the Executive Engineer of the Municipal Corporation, Ambala, under Section 262 of the Act of 1994, requiring it to remove the changes/alterations made in the subject plots. The petitioner also seeks a direction to the respondent authorities to forthwith de-seal the entries and exits to the subject plots.

Perusal of the record reflects that the petitioner already preferred a statutory appeal against the order dated 24.02.2020 and the notice dated

28.02.2020 before the Divisional Commissioner, Ambala Division, Ambala. The petitioner also filed a stay application along with the said appeal seeking interim relief during the pendency of the appeal.

Mr. Sartaj Singh Gill, learned counsel, would inform this Court that the said appeal was taken up by the appellate authority on 03.03.2020 and was adjourned to 25.03.2020. Learned counsel would further state that in the meanwhile, the petitioner's enjoyment of the subject plots is hindered owing to the sealing of the entries and exits to the subject plots.

When the statute provides an efficacious alternative remedy by way of an appeal, it is incumbent upon the authority, who is vested with such statutory power, to deal with the case filed before it expeditiously so that no adverse civil consequences are visited upon the party owing to delay on its part. It is therefore necessary that the Divisional Commissioner, Ambala Division, Ambala, consider the petitioner's stay application in the appeal on its own merits but it appears that the same was also adjourned to the next date of hearing.

Mr. Rajesh Gaur, learned Additional Advocate General, Haryana, present in Court, takes notice for the respondents. However, as this Court does not propose to go into the merits of the matter owing to the pendency of the statutory appeal before the appellate authority, there is no necessity to invite their response.

The writ petition is accordingly disposed of directing the Divisional Commissioner, Ambala Division, Ambala, to consider the petitioner's stay application in the pending appeal on the next date of hearing and pass appropriate orders thereon on merits and in accordance with law. In

the event, it is not possible for the appellate authority to do so on the said date, an endeavour shall be made to complete the exercise at least by the next date of hearing. In the meanwhile, the orders under appeal shall be kept in abeyance and any action taken pursuant thereto, including the sealing of the plots, shall be reversed so as to restore *status quo ante*.

No order as to costs.

(SANJAY KUMAR)
JUDGE

05.03.2020

rakesh
whether speaking/non speaking : Yes/no
whether reportable/non reportable : Yes/no