

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

114

CWP-12241 of 2020

Date of decision :- 29.10.2020

Khusdil Sehgal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Mukesh Singla, Advocate for the petitioner.

SUVIR SEHGAL, J.(ORAL)

The hearing of this petition was taken up through video conferencing because of the situation having arisen due to outbreak of Coronavirus (Covid-19).

Instant petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent No.2 to decide the review application dated 10.07.2020, Annexure P-9, in a time bound manner as per law.

Facts leading to the filing of the petition deserve to be noticed. The petitioner is the owner of a 100 square yards plot in Sector-10, Faridabad, wherein he is running a marriage palace under the name and style of Timpy Farms. On 07.07.2014, he applied to the Municipal Corporation, Faridabad - respondent No.2 for regularization of the marriage palace under the Haryana Government Policy of Regularization of Existing Marriage

Palaces and Banquet Hall. Vide letter dated 01.08.2014, Annexure P-2, respondent No.2 asked the petitioner to deposit the requisite scrutiny fee with the application. Thereafter the petitioner submitted various applications for the regularization of the marriage palace including application dated 15.05.2018, Annexure P-3, but without any result. By a notice dated 08.02.2019, Annexure P-4, respondent No.2 directed the petitioner to stop the commercial use of the premises which were located in a residential area, within 24 hours, failing which appropriate action under the provisions of Haryana Municipal Corporation Act, 1994 will be taken. The petitioner submitted his reply dated 10.02.2019, Annexure P-5. On 18.02.2019 without passing any order, the premises of the petitioner was sealed. A representation, Annexure P-6, was submitted by the petitioner with the Municipal Corporation on the same day. He approached this Court by filing CWP-23571 of 2019 titled as 'Dr. Bharti Gupta versus Municipal Corporation, Faridabad' and this Court by order dated 30.08.2019, Annexure P-7, disposed of the writ petition with a direction to respondent No.2 to consider and decide the application, Annexure P-3, moved by the petitioner in accordance with law and, in case, the authority came to the conclusion that the relief claimed by the petitioner was not admissible, then a speaking order be passed. The application of the petitioner was rejected by respondent No.2 by a speaking order passed on 01.06.2020, Annexure P-8. The petitioner filed an application dated 10.07.2020, Annexure P-9, for the review of the said speaking order, which is pending before respondent No.2.

At the outset, during the course of hearing of this petition on 19.08.2020, the counsel for the petitioner was asked to refer to the provision under which the power of review has been conferred upon the

Commissioner, Municipal Corporation. Despite adjournment, the counsel has not been able to refer to any statutory provision in this regard.

The power to review an order by an authority is not an inherent power. It cannot be exercised till such power is specifically vested in the authority under the statute. During the course of argument, the counsel could not show that such a power has been given to the Commissioner. In such a situation, the sole prayer sought for in the present petition cannot be granted and the petition deserves to be dismissed.

However, liberty is granted to the petitioner to challenge the speaking order dated 01.06.20202, Annexure P-8, passed by respondent No.2 by availing appropriate remedy as available to him in accordance with law, if so advised.

(SUVIR SEHGAL)
JUDGE

Date of Decision: 29.10.2020
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Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No