

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

CWP No.28316 of 2017 (O&M)

Date of Decision: 24.01.2020

Apeejay School

....Petitioner

Versus

Estate Officer, Haryana Urban Development Authority, Faridabad and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. H.L.Tikku, Senior Advocate, with
Mr. Sumeet Goel, Advocate,
for the petitioner.

Mr. Deepak Sabharwal, Advocate,
for the respondents-HUDA.

KARAMJIT SINGH, J.

The petitioner has filed this Civil Writ Petition for issuance of an appropriate writ, order or direction for quashing the show cause notice dated 17.12.2016 (Annexure P-1) issued by the Estate Officer, Haryana Urban Development Authority, Faridabad (Respondent No.1) against the petitioner and also for quashing of impugned order dated 08.03.2017/17.05.2017 (Annexure P-2) passed by respondent No.2 with further direction to the respondents to restore the boundary wall of the petitioner-school.

By means of the instant writ petition, the petitioner has assailed the hasty manner in which respondent No.1 demolished the boundary wall of the petitioner-school on 25.12.2016 in violation of the principles of natural justice.

The writ petition is contested by the respondents, who filed written reply, contesting the claim of the petitioner. In the written reply, it was

admitted that the petitioner-school is being run in Sector 15, Faridabad. The open space belonging to Haryana Urban Development Authority (hereinafter referred to as 'HUDA') is adjoining to the building of the petitioner-school. The said open space was left for public utility. The petitioner-school encroached the said open space by raising the boundary wall. Regarding which, show cause notice dated 17.12.2016 was issued directing the petitioner to remove the encroachment within a period of seven days. The petitioner did not pay any heed to the said notice. On this, the boundary wall, which was illegally erected by the petitioner-school, was demolished, in due course of law.

We have heard learned counsel for the parties and also gone through the record.

Learned counsel for the petitioner, while challenging the show cause notice (Annexure P-1) and order dated 08.03.2017/17.05.2017 (Annexure P-2), submitted that the action of the respondents was totally illegal. No notice was served to the petitioner in accordance with law. No opportunity of hearing was given to the petitioner. The alleged show cause notice (Annexure P-1) was vague as it did not contain any description regarding the site in dispute and was also silent regarding its area. No order of eviction was passed by the competent authority. The demolition of the boundary wall was carried out without any demarcation.

Learned counsel for the petitioner further argued that no such encroachment was ever made by the petitioner, rather the green belt was preserved and maintained by the petitioner in the site in dispute. The respondents under the garb of impugned action intends to convert the said green belt area to use it for some commercial purpose. It is contended that the respondents have got no authority to do so. To strengthen his contention,

learned counsel for the petitioner referred to **Lal Bahadur vs. State of U.P. and others, 2018(15) Supreme Court Cases, 407, Anirudh Kumar Vs. Municipal Corporation of Delhi and others, 2015 (7) Supreme Court Cases, 779, Virender Gaur and others Vs. State of Haryana and others 1995 (2) Supreme Court Cases, 577.** The decision of the Hon'ble Apex Court in **Civil Appeal No.7933 of 1995** titled **G.N.Khajuria and others Vs. Delhi Development Authority and others** decided on 31.08.1995 is also cited by the learned counsel for the petitioner, in support of his case. Reference is also made to the decision of this Court in **Civil Writ Petition No.11947 of 1992** titled **Social Welfare, Associate and another Vs. Haryana Urban Development Authority and others** decided on 14.10.1996.

On the other hand, learned counsel for the respondents contended that the site in dispute belonged to HUDA and was reserved for public utility purposes but the same was encroached by the petitioner. However, now, the said encroachment has been removed by the respondents, in accordance with law. There was no illegality in the action taken by the respondents on the basis of show cause notice (Annexure P-1).

We have considered the arguments raised by the learned counsel for the parties and gone through the record carefully.

It is not disputed that the vacant space, which was reserved for public utility purposes by HUDA, is there, adjacent to the building of the petitioner-school. However, the petitioner-school was having no right to encroach any portion of the said vacant space by raising wall therein. The petitioner-school was having no right to retain the possession of the said open space. The aforesaid wall raised by the petitioner-school, was demolished by the competent authority, after issuance of show cause notice (Annexure P-1).

The appeal filed by the petitioner for setting aside the aforesaid show cause notice was dismissed by the Administrator, HUDA, Faridabad, vide order dated 08.03.2017/17.05.2017 (Annexure P-2). The action taken by the respondents cannot be considered to be illegal or unfair. HUDA being the owner of the site in dispute can use the same for public utility purposes.

There is no dispute regarding the case law referred by the learned counsel for the petitioner but the same is in different context, wherein, Government or Local Authorities tried to convert green belt into residential or commercial area.

Consequently, this writ petition is dismissed being devoid of merits. At the most, the petitioner-school can claim damages with regard to demolition of its wall by approaching the appropriate Forum.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

24.01.2020

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Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No