

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-27735-2019 (O&M)

Date of Decision:-06.03.2020.

Rakesh Kaura and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. M.L. Saggar, Sr. Advocate with
Mr. G.P. Vashisth, Advocate and
Ms. Armaan Saggar, Advocate for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Ashok Kumar Bazaz, Advocate
for respondent Nos. 2 and 3.

Mr. R.S.Modi, Advocate and
Ms. Kavita Arora, Advocate
for respondent No.4.

SANJAY KUMAR, J. (Oral)

The prayer of the petitioners in this case was to direct the respondent authorities not to construct any static Compactor in the Leisure Valley at Kartar Singh Sarabha Nagar, Ludhiana, and to remove the construction raised in connection therewith by the Municipal Corporation, Ludhiana, and the Ludhiana Improvement Trust, respondents No.2 and 4.

By order dated 20.12.2019 passed in this writ petition, this Court directed the respondent authorities not to commence the functioning of the Garbage Compactor. This order was extended thereafter, from time to time.

While matters stood thus, the Ludhiana Improvement Trust—
Respondent No.4, passed a resolution on 05.02.2020 to amend the existing

scheme so as to facilitate installation of the subject compactors and sent the same to the Government of Punjab for necessary approval. Thereupon, Memo/Letter dated 17.02.2020 was issued by the Local Government Department of the Government of Punjab stating as under:-

“ On the above subject resolution No.24 dated 05.02.2020 has been approved by the Govt., after consideration on the condition that you may after verifying at your own level and ensure that the proposed site is not part of any park. In case it is so then in that event a park with the same area be proposed at some appropriate site, with regard to the installation of portable compactor at the proposed site ensure that there is no stay/adverse order issued by any court of law and the compliance of M.S.W 2016 Rules be ensured. Beside the above if there is any objection/suggestion with regard tot his site the same may be disposed of in accordance with the M.S.W. Rules 2016 and further necessary action be taken for change of land use u/s 43 of the PTI Act, 1922 and the necessary amendment of the scheme be brought into action and a case for change of land use be prepared and sent the same to the Govt., for approval.

This letter has been issued after approval of the worthy Minister Local Govt., department Punjab. ”

In the light of the aforestated direction of the Government, Mr. M.L. Saggar, learned senior counsel for the petitioners, suggested that the Municipal Corporation, Ludhiana, should be asked to furnish an affidavit expressing consent to await the final decision of the Government, before proceeding further in the matter.

Today, the additional affidavit dated 04.03.2020 filed by the Medical Officer of Health, Municipal Corporation, Ludhiana, is placed on record. Therein, he stated that the Corporation would start the operation of

the Garbage Compactor only after the development scheme was finally altered/amended by the Government.

Be it noted that not only the scheme is to be amended in terms of the aforesaid Memo/Letter dated 17.02.2020 but the Government is also to approve the change of land use. Until and unless all necessary steps are taken, as required by law, and the directions of the Government of Punjab, as set-out supra, it would not be open to the Municipal Corporation, Ludhiana, or the Ludhiana Improvement Trust to proceed further in the matter. As the respondent-authorities are ready and willing to await the decision of the Government after necessary steps are taken, no cause is made out to keep this writ petition pending for adjudication any longer.

The writ petition is accordingly disposed of taking on record the stand of the respondent authorities that no steps would be taken for commencement of operation of the Garbage Compactors at the site in question till all necessary measures are taken as per the Memo/Letter dated 17.02.2020. It is also made clear that this Court has not gone into the merits of the case and this order does not signify a seal of approval in so far as the installation and operation of the Garbage Compactors is concerned.

Interim order granted on 20.12.2019 shall stand vacated.

Pending miscellaneous application, if any, shall also stand closed.

No orders as to costs.

(SANJAY KUMAR)
JUDGE

March 06, 2020.

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Whether speaking/reasoned:-
Whether Reportable:-

Yes / No
Yes / No