

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

-.-

C.W.P. 15487 of 2021
Date of decision: 13.08.2021

M/s Savitri Veneers

.....Petitioner

Versus

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Shranav Katyal and Mr. Raghav Gulati, Advocates
for the petitioner

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Rajbir Sehrawat, J. (Oral)

The present petition has been filed by the petitioner under Article 226 of the Constitution of India for issuance of a writ/order or directions; especially in the nature of certiorari seeking quashing of show cause notices dated 19.03.2021 and 05.07.2021 (Annexures P-8 and P-13, respectively) being silent as to what alleged violations have been committed by the petitioner at its premisses; along with impugned recommendations dated 13.07.2021 (Annexure P-18); with further prayer for issuance of a writ in the nature of mandamus directing the respondents to grant licence/registration to the petitioner for enhanced machinery; with respect to application dated 11.03.2017 .

It is submitted by counsel for the petitioner, and has been so pleaded in the petition, that before making recommendations to the State Level Committee, the Forest Divisional Officer was required to grant an opportunity of hearing to the petitioner. However, no proper and effective opportunity of hearing was provided by the Forest Divisional Officer before making recommendations against the petitioner unit and only a formal show cause notice was served upon the petitioner. The said show cause notice was not even accompanied by any inspection report, as claimed by the respondents. The show cause notice was altogether vague; which could not have been replied in specific terms. Still, the petitioner had tried to explain his position. But the Forest Divisional Officer did not apply his mind even to the reply filed by the petitioner. Counsel has further submitted that if the alleged inspection reports, carrying details of the alleged violations at the premises of the petitioner are provided to the petitioner, only then an effective representation can be made before the concerned authority.

Notice of motion.

Ms Anju Arora, Additional Advocate General, Punjab accepts notice on behalf of the respondents. She has submitted that the respondents have acted against the petitioner only in accordance with law. Therefore, there is no infirmity in the recommendations made by the Forest Divisional Officer. Hence, the present writ petition deserves to be dismissed.

Having heard counsel for the parties, this Court finds that the Forest Divisional Officer has served upon the petitioner a show cause notice alleging violations by it. The said violations are stated to have been inferred from the inspection reports, allegedly, carried out by the Forest

Range Officer. However, the show cause notice served upon the petitioner does not reflect that a copy of the said reports was ever supplied to the petitioner. Hence, the specific and material details which could have been replied by the petitioner as a response to the show cause notice, have not been provided to the petitioner. This renders the show cause notice only a formal opportunity of hearing and not an effective opportunity of hearing.

Needless to say that the petitioner, who is operating the unit under the licence from the competent authority; has got the right to operate it unless the licence is revoked by following due process of law. The due process of law would, definitely, envisage an effective opportunity of hearing; and not merely issuing a formal show cause notice.

In view of the above, recommendations dated 13.07.2021 (Annexure P-18) is set aside. However, the Forest Divisional Officer would be at liberty to issue a fresh show cause notice to the petitioner; by supplying copy of the inspection reports upon which the violations on the part of the petitioner unit are alleged; and to proceed further in accordance with law.

Since there is no provision in the rules for providing an opportunity of hearing by the State Level Committee after the Forest Divisional Officer makes recommendations for revocation or cancellation of the licence, therefore, it would be desirable that the petitioner is afforded an effective opportunity of hearing before arriving at any conclusion qua violations of any of the conditions of the licence. Therefore, the Forest Divisional Officer shall also provide an opportunity of personal hearing to the petitioner.

However, it is made clear that once the above said procedure is followed by the Forest Divisional Officer, then the petitioner would be having its remedy only before the statutory authorities; in accordance with law.

Disposed of accordingly.

(Rajbir Sehrawat)
Judge

13.08.2021
Mohan Bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No