

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 18100 of 2021

Date of Decision: 15.09.2021

Girvar Yadav

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Mukesh Rao, Advocate
for the petitioner(s).

Mr. Samarth Sagar, Additional Advocate General,
Haryana, for respondent No.1 to 4.

Anil Kshetarpal, J.

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India with the following substantive prayers:-

“(i) a writ in the nature of certiorari for setting aside the impugned Show Cause Notice dated 11.03.2020 (Annexure P-7), Show Cause Notice dated 24.06.2020 (Annexure P-8), Order/Communication dated 20.07.2020 (Annexure P-10), Order dated 11.09.2020 (Annexure P-12) whereby the property of the petitioner was ordered to be sealed and order dated 24.08.2020 (Annexure P-16) passed by appellate authority/respondent no.4 whereby appeal filed by the petitioner against order dated 11.09.2020, has been dismissed, being wrong, illegal, perverse, arbitrary and against the principles of natural

justice and other provisions of law.

And

For issuance of writ in the nature of mandamus directing the respondents to de-seal the property/building of the petitioner immediately, in the interest of justice.

And

Further for issuance of directions to the respondents, not to proceed with demolition of the property/building of the petitioner, during the pendency of the present civil writ petition.

And/or

Further the respondents be directed to regularize the building of the petitioner keeping in view the order dated 12.10.2020 (Annexure P-14) passed by respondent No.4 and Regularization policy (Annexure P-18) in the interest of justice”.

2. It is not in dispute that the area in question came within the municipal limits of Municipal Corporation, Gurugram, in the year 2010, whereas the petitioner reconstructed his building in 2011. As the building has been reconstructed without getting the building plan sanctioned, consequently, the building has been sealed. The appeal filed by the petitioner before the Commissioner has also been dismissed vide an order dated 24.09.2020.

3. The petitioner has filed an application for the regularization of the construction.

4. When the writ petition came up for hearing on 13.09.2021 Mr. B.R. Mahajan, Advocate General, Haryana, entered appearance and brought the notice of the Court that the aforesaid representation has been decided vide an order dated 22.10.2020 in the following manner:-

“From

*Commissioner,
Municipal Corporation,
Gurugram.*

To

*Sh.Girvar Yadav,
R/o Village Badshahpur, near Mittal Hospital,
District Gurugram.*

Memo No. MCG/TP/CTP/2020/ Dated

*Sub: Executive Appeal No. 169 of 2020 titled as Girvar
Yadav v/s MCG.*

*Ref: Order dated 12.10.2020 passed by Commissioner,
Gurugram Division, Gurugram.*

*In compliance with the order under reference, the
site has been inspected and it is intimated that your site is
situated in an unauthorized colony falling in the revenue estate
of village Badshahpur, Gurugram. Hence, the illegal
construction raised on your plot cannot be considered for
regularization.*

*Sd/-
Planning Assistant
for Commissioner*

*Endst.No. MCG/TP/CTP/2020/31524
22/10/2020”*

Dated:

5. In order to give an opportunity to the learned counsel representing the petitioner, the case was adjourned to today.

directed to consider the request of the petitioner for regularization. Once the Commissioner, Municipal Corporation, Gurugram, has already taken a decision that the unauthorized building is located in an unauthorized colony cannot be considered for regularization, the prayer made by the learned counsel representing the petitioner is not justified.

7. Keeping in view the aforesaid facts, the writ petition is disposed of with the observation that the petitioner, if so advised, may assail the correctness of the order dated 22.10.2020 in accordance with law.

(Anil Kshetarpal)
Judge

September 15, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No