

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

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CWP No. 23396 of 2021

Decided on : 22.11.2021

Balbir Pal Dandyan

... Petitioner

Versus

Municipal Corporation, Chandigarh and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. Sangram Singh Saron, Advocate for the petitioner.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the show cause notices dated 21.10.2021 (Annexures P-17 & P-18) issued by respondent No.4 under Rules 14 and 10 of the Chandigarh Estate Rules, 2007 read with Section 8-A of the Capital of Punjab (Development and Regulation) Act, 1952.

The show cause notices have been issued on the ground of misuse of 1st and 2nd floor of the building for running a guest house in SCF No.13, Motor Market & Commercial Complex, Manimajra, U.T. Chandigarh.

A perusal of the show cause notices would go on to show that they are in pursuance of remand orders dated 11.08.2010 (Annexures P-8 & P-9) passed by the Chief Administrator, which had been filed in appeal against resumption orders dated 14.09.2009 (Annexures P-6 & P-7).

Keeping in view the settled principles of law laid down by the Apex Court in '**United Bank of India vs. Satyawati Tandon & Ors.**', (2010) 8 SCC 110 and '**Kranti Associates (P) Ltd. Vs. Masood Ahmed Khan**', (2010) 9 SCC 496, this Court is not inclined to exercise its extra-ordinary writ jurisdiction, since an alternative and efficacious remedy is available to

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file reply to the show cause notice and await for orders passed by the competent authority.

Counsel for the petitioner has brought to our notice the fact that regarding another property bearing SCF No.1028, Motor Market & Commercial Complex, Manimajra, U.T. Chandigarh, for which the petitioner alongwith other co-owners therein were constrained to go to the Apex Court, in which proceedings the Apex Court had passed scathing remarks against respondent No.4 on 22.02.2021 (Annexure P-16) in **Miscellaneous Application No.2177/2020 in Civil Appeal No.372/2020 'Balbir Pal Dandyan & others Vs. The Union Territory of Chandigarh and others'**.

Counsel for the petitioner has, accordingly, contended that the directions have also been issued that a fresh order on merit be passed, which is by an officer other than and senior to the officer who had passed the order dated 24.09.2020 (Annexure P-12) concerning the said property. It is submitted that it is on that account earlier proceedings which had been remanded have now been re-opened after a decade and there is apprehension of bias against respondent No.4.

It is to be noticed that qua the show cause notice dated 21.10.2021 neither any reply has been filed yet. It has been brought to our notice that no proceedings were conducted on 26.10.2021 and now the matter is pending for tomorrow i.e. 23.11.2021.

It cannot be pre-supposed at this stage that respondent No.4 is pre-determined in any manner and, therefore, the writ petition is premature.

The apprehension as such that an adverse order is likely to be passed cannot

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be predicted and it is always open to the petitioner to approach this Court again if the said apprehension comes true, since he has already approached this Court even at the stage of issuance of show cause notices itself. Accordingly, liberty is given to put forth a reply to the show cause notice culling out all necessary details before the concerned authorities. We are hopeful that the reply to the show cause notice shall be taken into consideration before passing of any order,

It is for the petitioners to put forth factual and legal grounds in the reply to the show cause notice, so that the competent authority as such takes a conscious decision on the same, after applying its mind and keeping in view the background of the case. The necessary reply be filed before the competent authority by 29.11.2021.

Resultantly, the present writ petition is disposed of with the aforesaid observations.

(G.S. SANDHAWALIA)
JUDGE

November 22, 2021
Naveen

(VIKAS SURI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No