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

**CWP-22505-2021
Date of decision: 20.05.2022**

WASU BRICK KILN INDUSTRIES

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. P. Singh Wasu, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

Mr. Lokesh Sinhal, Advocate
for respondent No.3-Municipal Corporation, Yamuna Nagar.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction and especially a writ in the nature of mandamus directing respondent No.2, to renew brick kiln licence of the petitioner firm namely M/s Wasu Brick Kiln Industries, on the basis of a Trade Licence No.29, which was valid upto 31.03.2021.

In brief, the grievance of the petitioner is that the petitioner firm was in the business of manufacturing bricks. The petitioner firm was

set up in the year 1980 and had been issued a licence to operate the brick kiln by respondent No.2, however, the said licence was not renewed. The petitioner approached the department of Food, Civil Supplies and Consumer Affairs, Government of Haryana, for renewal of the same and even served legal notice for renewal of the said licence. Thereafter, the petitioner firm received a communication from the office of Municipal Corporation, Yamuna Nagar, asking for deposit of property tax and licence fee on the basis of which, the petitioner firm was then issued a Trade Licence, however, brick kiln licence of the petitioner was not renewed by respondent No.2.

Learned counsel for the petitioner herein would contend that once the Municipal Corporation, Yamuna Nagar has issued the petitioner firm a Trade Licence, it would tantamount to no objection certificate being issued to function his brick kiln and, therefore, by virtue of the Trade Licence having been issued, respondent No.2 ought to renew the brick kiln licence.

Learned State counsel would submit that a Trade Licence cannot be read to be a No Objection Certificate to run the brick kiln. He does not dispute the fact that the petitioner firm was initially running the brick kiln as far back as in 1980, however, would submit that there is a policy not to allow any brick kiln to function within controlled area/urbanization zone. He would further submit that since the initial setting up of the brick kiln was in the year 1980, the said area has now come within the limits of Municipal Corporation, Yamuna Nagar and in terms of the policy, it would be the Municipal Corporation, Yamuna Nagar, who has to

take a decision as to whether a No Objection Certificate is to be issued to the petitioner firm or not and it is only on issuance of a No Objection Certificate that the matter will be considered for issuance of a brick kiln licence, otherwise the department would be violating the policy dated 21.12.2010.

Learned counsel for Municipal Corporation, Yamuna Nagar would submit that a No Objection Certificate and the Trade Licence are two separate issues and, therefore, Trade Licence cannot be termed and deemed to be a No Objection Certificate as issued by the Corporation to the petitioner firm to function his brick kiln.

I have heard learned counsel for the parties and find that the land of the petitioner firm has now come within the Municipal Corporation area and, therefore, in terms of the aforesaid policy, the petitioner firm would have to obtain a No Objection Certificate from Municipal Corporation, Yamuna Nagar. This opinion is forthcoming despite learned counsel for the petitioner pointing out that it was respondent No.2, who had asked the petitioner firm to get a Trade Licence from Municipal Corporation, which Trade Licence was obtained.

Consequently, the present petition is disposed of by giving a direction to the Municipal Corporation, Yamuna Nagar, that in case the petitioner applies for a No Objection Certificate within a period of two weeks from the date of receipt of certified copy of this order, the Corporation would consider his request for granting a No Objection Certificate. Since the petitioner firm has been pursuing his case for a considerable length of time before this Court, let a decision be taken on

such request for grant of No Objection Certificate, within a reasonable time frame of three weeks thereafter. In case No Objection Certificate is issued, then respondent No.2 will take its decision thereafter, again within a time frame of a period of one month of the presentation of the No Objection Certificate.

20.05.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No