

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

102

2023:PHHC:131163-DB

**CM-15580-CWP-2023 and
CM-16216-CWP-2023 in/and
CWP-9586-2021 (O & M)
Date of Decision: 10.10.2023**

Burman Estate Pvt. Ltd.

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Chetan Mittal, Sr. Advocate,
with Mr. Vaibhav Joshi, Advocate,
Mr. Udit Garg, Advocate,
Mr. Tushar Sharma, Advocate,
for the petitioner.

Mr. Aman Bahri, Addl. A.G., Haryana.

G.S.SANDHAWALIA, J. (Oral)

CM-15580-CWP-2023 and CM-16216-CWP-2023

Applications for early hearing of the main writ petition from 23.11.2023 are allowed.

The main case is taken up for hearing today itself.

CWP-9586-2021 (O & M)

1. Challenge in the present writ petition is to Condition No.5 in the License Renewal Letter dated 15.01.2021 (Annexure P-1) whereby, directions have been given to the petitioner to apply for the change in the name of the company under the change in the beneficial interest policy dated 18.02.2015 (Annexure P-12). Further directions are sought for setting aside the show cause notice dated 02.04.2021 (Annexure P-2) and for issuing fresh license in the name of Burman Estate Pvt. Ltd. after deleting Condition No.5 in the letter dated 15.01.2021.

2. The stand of the respondents in the written statement is that the writ is pre-mature to the extent that no reply has been filed to the show cause notice and the final decision is to be taken only on the receipt of response from the petitioner as per preliminary objection No.6. Reference has also been made to the letter dated 16.04.2021 (Annexure R-1) wherein, the petitioners themselves prayed for 15 days' time to respond to the notice on the ground that the delay in submitting the response was on the account of non-receipt/delayed receipt of the show cause notice dated 02.04.2021.

3. A perusal of the paper book would go on to show that the initial license Bearing No.135 of 2008 was granted in favour of Dr. Fresh Real Estate Ventures Pvt. Ltd., which was valid upto 27.06.2010 for 4.4375 acres situated in village Shikohpur, District Gurugram falling in Sector 82-A. The said license was renewed on various occasions upto 27.06.2014 in the favour of the original licensee. Thereafter, Burman GSC Estate Pvt. Ltd. was the beneficiary of the renewal upto 27.06.2016 as per the communication dated 18.09.2014 (Annexure P-6) and thereafter upto 27.06.2018 as per letter dated 17.06.2016 (Annexure P-7). On 12.09.2018 (Annexure P-8), the license was renewed till 27.06.2020 in favour of Dr. Fresh Real Estate Pvt. Ltd. (now known as Burman Estate Pvt. Ltd.). On 11.08.2020, the petitioner-company applied for renewal of the said license while depicting itself as formally known as Burman GSC Estate Pvt. Ltd. (Annexure P-20), which led to the renewal of the license on 15.01.2021 till 27.06.2025 (Annexure P-1) subject to certain terms including Clause No.5, which is now being objected to. The said communication also mentions that the renewal of the license can be *void-ab-initio* if any of the conditions mentioned are not complied with.

26.02.2021 (Annexure P-22) raising various grounds objecting to clause No.5 and seeking withdrawal and omission of the abovesaid condition. Resultantly, show cause notice dated 02.04.2021 (Annexure P-2) was issued wherein, there was a mention that there was a change in the share holding pattern of the company by more than 25% as compared to shareholding pattern at the time of grant of license. Resultantly, the petitioner was asked to show cause within a period of 15 days as to why it was not adhering to the policy dated 18.02.2015, which is the beneficial interest policy, failing which, necessary action was liable to be taken against the petitioner.

5. It is not disputed that the petitioner itself, vide Annexure R-1, had further taken time as pleaded in the written statement to respond to the said notice. The only apprehension senior counsel for the petitioner could project was that the renewal of license on 15.01.2021 would be binding as such and the respondents as such have already decided the said issue.

6. Mr. Bahri could not dispute the factual aspect that apparently the matter is still subject matter of consideration in as much as the show cause notice is issued. The wording of the show cause notice reads as under:-

“In reference to your letter dated 01.03.2021, it is informed that you were directed to apply for the change in name of the company under change in beneficiary interest policy dated 18.02.2015 within a period of 30 days vide this office memo dated 15.01.2021. There is a clear change in shareholding pattern of the company by more than 25% as compared to shareholding pattern at the time of grant of license. Therefore, you were directed to show cause within a period of 15 days for not adhering to policy dated 18.02.2015 as directed by the department, failing which necessary action shall be

taken as per Act/Rules.”

7. The stand of the respondents in the written statement is also such and, therefore, now it cannot be said that License Renewal Letter dated 15.01.2021 (Annexure P-1) as such is a final order. The respondents also in the written statement have pleaded on merits that there is an alternative remedy of appeal, which we feel is in contradiction as such as it amounts to prejudging the issue on the merits of the case.

8. In such circumstances, we dispose of the writ petition with directions to the petitioner to file a detailed response to the said show cause notice dated 02.04.2021 (Annexure P-2) within a period of 15 days from today. Thereafter, the respondent No.2 will decide the said issue within a period of 4 weeks from the date of receipt of such response after adhering to the principles of natural justice and giving the petitioner an opportunity of being heard in the facts and circumstances since there is a factual aspect which will have to be gone into regarding the change of the share holding pattern of the company which is the basis of issuing show cause notice.

(G.S. SANDHAWALIA)
JUDGE

10.10.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No