

202 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12593 of 2013 (O&M)
Date of Decision: 21.04.2023

The Bhagwant Singh Charitable Trust through its trustee Sh. H.S. Mamik
..... Petitioner
V/s.
The Union Territory, Chandigarh and Others
.....Respondents

CWP No.16494 of 2005 (O&M)

The Bhagwant Singh Charitable Trust through its trustee Shri H.S. Mamik
..... Petitioner
V/s.
The Union Territory, Chandigarh and Others
.....Respondents

CORAM: **HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**
 HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Puneet Bali, Senior Advocate with
 Mr. Shivam Sharma, Advocate
 for the petitioner.

 Mr. Anil Mehta, Sr. Standing counsel with
 Mr. Jasvir Chandel, Advocate for U.T. Chandigarh.

Augustine George Masih, J. (Oral)

CM-2276-CWP-2023 & CM-2279-CWP-2023

Reply dated 19.04.2023 to the applications, on behalf of the
respondents, is taken on record.

A copy thereof, has been supplied to the counsel for the non-
applicant-petitioner.

Main case

Learned senior counsel for the petitioner submits that the writ petition can be disposed of in the light of the subsequent developments which have taken place after the passing of the impugned orders especially the order dated 02.04.2013 (Annexure P-28) passed by the Advisor to the Administrator, Union Territory, Chandigarh whereby the orders passed by the authority cancelling the lease of the site allotted to the petitioner-Trust was upheld. It is asserted that the petitioner has deposited the amount of penalty as was imposed by the Advisor to the Chief Administrator. Although initially three months time was granted by the Advisor to remove the non-compoundable violations, the same would now be removed within a period of six months from today.

It has further been brought to the notice of the Court that the revised site plan was submitted by the petitioner-Trust which has been sanctioned on 19.12.2022 subject to certain conditions and the same stands released to the School Management by way of communication dated 20.12.2022. He further contends that the petitioner may be granted the period for removal of the non-compoundable building violations within the time as prayed above. Another submission which has been made by the learned senior counsel for the petitioner is that the third gate which was submitted in the site plan although has not been approved but the matter is under consideration of the competent authority and therefore the said aspect may be kept open for which the decision so taken, may be intimated to the petitioner. Prayer has thus been made for disposal of these writ petitions accordingly.

Learned counsel for the respondent has not disputed the factual assertions as has been made by the learned senior counsel for the petitioner. He however, states that the revised building plan as has been sanctioned on

19.12.2022 is conditional. Unless the said conditions are fulfilled, the same cannot be said to be conferring any right upon the petitioner. He however, could not dispute the fact that the penalty as has been imposed by the Advisor stands deposited. The aspect with regard to the matter being pending before the competent authority, relating to the issue of permitting third gate in the Schools has also been admitted. He submits that a decision in this regard is likely to be taken soon. As regards the period sought by the petitioners for removal of the non-compoundable building violations, learned counsel for the respondents submits that the said period as fixed in the order dated 02.04.2013 (Annexure P-28) passed by the Advisor to the Administrator i.e. three months having already expired way back the said period may not be granted at this stage.

Having considered the submissions made by the counsel for the parties where undisputedly a part of the order passed by the Advisor dated 02.04.2013 (Annexure P-28) regarding deposit of the penalty amount having been complied with, the revised building plan as sanctioned on 19.12.2022 with certain conditions which relates to removal of non-compoundable violations for which the learned senior counsel for the petitioner having made a statement to remove within a period of six months from today, we accept the said prayer of the learned senior counsel for the petitioner. Six months time to remove the non-compoundable violations is granted to the petitioner from today, this we permit for the reasons that the studies of the students may not be adversely affected because of the removal of the building violations as the vacations would come in the month of June, 2023.

As regards the permission for the third gate in the site plan for use by the petitioner-Trust who runs the School is concerned, which is pending consideration before the competent authority which will have

its impact not only in the case of the petitioner-Trust but other Schools in the Union Territory of Chandigarh also, we leave it open at this stage. In case, the petitioner is aggrieved of the decision as may be taken by the competent authority, it may avail of its remedy in accordance with law.

The petitioner-school after having removed the non-compoundable building violations would inform the competent authority in this regard which shall thereafter proceed to inspect the premises and take a decision in this regard. In case, the authority is satisfied with regard to the removal of the non-compoundable violations and the building is as per revised building plan sanctioned on 19.12.2022, the impugned orders which have been challenged in the present writ petition would cease to operate and the site in question shall be restored to the petitioner-Trust.

Interim orders passed in favour of the petitioner in the writ petition shall continue for a period of six months from today. It is clarified that in case the non-compoundable violations are not removed within the time stipulated above, the impugned orders with regard to the cancellation of the lease of the plot in question shall come into force forthwith.

The writ petitions stand disposed of in above terms.

(AUGUSTINE GEORGE MASIH)
JUDGE

21st April, 2023

Sonia Puri

(HARPREET SINGH BRAR)
JUDGE

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