

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

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**CWP-13847-2016 (O&M).
Date of Decision: 22.09.2023.**

MUNICIPAL COUNCIL SIRSA AND ANOTHER

.. Petitioners

Versus

HEM RAJ YADAV AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Vishal Garg, Advocate,
for the petitioners.

Mr. Ajay Kamboj, Advocate
for respondents No.1 and 2.

Mr. Vivek Chauhan, Addl. A.G. Haryana, for respondent No.3.

VINOD S. BHARDWAJ, J. (ORAL)

The prayer in the present writ petition is for seeking quashing of the order dated 18.04.2016 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Sirsa, whereby the petitioner-Municipal Council, Sirsa, has been directed to shift the dairies situated within its jurisdiction outside its limits.

Learned counsel for the petitioner contends that the respondents No.1 and 2-applicants, who are residents of Street No.8, Friends Colony, Hisar Road, Sirsa had filed an application under Section 22 C of the Legal Services Authorities Act, 1987, averring that they are residents of the above Colony, Sirsa where one Veermati and her son

Suresh Kumar are running a dairy business without the permission of the Municipal Council, Sirsa. As a result of the dairy operations being run in violation of the Statute and the bye-laws framed by the Municipal Council, Sirsa, a lot of problem relating to hygiene, sanitation and other ancillary health issues like smell, mosquito breeding etc. arise therefrom. Numerous representations were submitted by them to the officials of the Municipal Council, Sirsa, against the said activity, however, finding no response, they approached the Permanent Lok Adalat (Public Utility Services), Sirsa.

It was averred in the said application that the Chief Minister, Haryana, had announced shifting of dairies outside the Municipal limits during his visit on 20.07.2015 and that the requisite steps have not been taken by the Municipal Council, Sirsa, to implement the said Chief Minister Announcement.

The petitioners appeared before the Permanent Lok Adalat (Public Utility Services), Sirsa and submitted their response admitting the existence of the dairy business in Friends Colony, Sirsa. It was further averred that they have issued notices to violators as well as to the other dairies owners to shift the same outside the residential area and that challans had also been issued to the violators. It is further averred that so far as the issue of shifting of dairies outside the Municipal limits is concerned, they have already submitted a request to the Government for acquisition of land so that the same can be planned to be shifted outside the municipal limits. Further, it is averred that till then all steps are being taken by the petitioner Municipal Council to ensure compliance of law and to maintain sanitation and cleanliness.

Attempts for amicable resolution of the issues in terms of Section 22 C (4) to Section 22 C (7) of the Act of 1987 was initiated by the Permanent Lok Adalat (Public Utility Services), Sirsa, however, as the amicable resolution could not be finalized, hence, adjudication under Section 22 C (8) of the Act of 1987 was undertaken.

Upon consideration of the evidence adduced by the respective parties, the Permanent Lok Adalat (Public Utility Services), Sirsa, directed the petitioner Municipal Council, Sirsa, to shift the dairies including the dairy of Smt. Veermati and her son from the area of Municipal Council Sirsa, within a period of 03 months. The operative part of the order reads thus:-

“8. Net result of the above said discussion is that the petition of the petitioner succeeds and the same is hereby allowed. An Award directing the respondents to shift the dairies, including the dairy of Smt. Veermati and her son from the area of Municipal Council, Sirsa, as early as possible probably within a period of three months so that the public may reside in healthy atmosphere in the residential area falling within the Municipal Council, Sirsa.”

Aggrieved thereof, the present writ petition has been filed.

Learned counsel appearing for the petitioner contends that the Permanent Lok Adalat (Public Utility Services), Sirsa does not have any power to issue a direction to close or shift all the dairies running within the Municipal limit and the scope of authority vested in the Permanent Lok Adalat (Public Utility Services), is to enforce that the regulations of Haryana Municipal (Cow-Houses) Bye-Laws, 1978 are properly

implemented and that sanitation and hygienic conditions are maintained within the municipal limits. He further contends that it would not be within the domain of the Municipal Council to relocate the dairy units outside the municipal limits as the authority of the Municipal Council does not run in non-municipal areas. It is further contended that for the purposes of relocation, identified area outside the municipal limits can only be acquired by the State Government and in the absence thereof, the directions issued by the Permanent Lok Adalat (Public Utility Services), Sirsa, cannot be implemented.

Learned counsel for the respondents No.1 and 2-applicants, however, contends that the petitioner Municipal Council is not taking appropriate and adequate steps to maintain cleanliness in the area and that the sanitation and hygienic conditions in the area of Friends Colony has undergone a deep slide. The Municipal Council is thus obligated to take all effective steps as are necessary to ensure cleanliness in the area and to prevent the health hazards that accrue as a result of breach of the bye-laws and failure by the dairy owners to maintain cleanliness as mandated by the bye-laws.

Learned counsel for the petitioner Municipal Council undertakes that all effective measures shall be taken to ensure maintenance of hygiene and sanitation in the area and that the dairies which are operating after obtaining due permission from the competent authority comply with the applicable bye-laws.

I have heard the learned counsel for the parties and have gone through the documents and pleadings. The powers of the Permanent Lok

Adalat (Public Utility Services), under the Legal Services Authorities Act, 1987 is as regards “sanitation and hygiene.” The direction could thus pervade to the said extent and any further adventure would perforate into the areas of town planning. The directions issued above require acquisition of land, which is the domain of State and there is no order against State. It thus gives rise to serious issues of enforceability of such award.

Having heard learned counsel for the respective parties and taking into consideration that the direction extracted above is prima facie beyond the scope of powers conferred upon the Permanent Lok Adalat (Public Utility Services), as per the Legal Services Authorities Act, 1987 and also the fact that the petitioner Municipal Council has undertaken to ensure compliance of regulations, the present writ petition is partly allowed. The direction issued by the Permanent Lok Adalat (Public Utility Services), Sirsa, in para No.8 extracted above is set aside to the extent directing shifting of dairies outside Municipal Council limits. The petitioner Municipal Council, Sirsa, shall, however, be responsible to ensure taking of effective steps for maintaining cleanliness and compliance of the regulatory bye-laws.

Pending misc. applications, if any, shall also stand disposed of accordingly.

September 22, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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