

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

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Civil Writ Petition No.19412 of 2020
Date of Decision: January 10th, 2023

M/s Orion Infrastructure Pvt. Ltd., New Delhi

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Rahul Dev Singh, Advocate
for the petitioner.

Ms. Kirti Singh, Deputy Advocate General, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

On 18.11.2020, when the case came up for hearing, following
order was passed:-

“Petitioner has approached this court praying for quashing of the order dated 10.12.2019 (Annexure P-17), passed by the Principal Secretary to Government of Haryana, Town and Country Planning Department, exercising the powers of the Appellate Authority under the provisions of the Haryana Development & Regulation of Urban Areas Act, 1975. In the said order the prayer for refund of the scrutiny-fee as well as interest on refund of the licence-fee have been denied by the appellate authority vide the impugned order.

Learned counsel for the petitioner has pressed upon the issue with regard to the claim for refund of the scrutiny-fee by asserting that the respondent department was very much aware of the fact that the project could not be executed in the light of the fact that the land was hilly area and there was a ban imposed by the Hon'ble Supreme Court. Despite that the scrutiny fee has not been refunded. It is asserted that the respondents have proceeded to keep the said amount without any authority of law and therefore, should have, in the given facts and

circumstances, refunded the said amount.

This contention of the learned counsel for the petitioner cannot be accepted in the light of the judgment passed by a coordinate bench in CWP No.16597 of 2015 The Panipat HSEB Employees Co-operative House Building Society Ltd. Vs. State of Haryana & Ors., decided on 19.01.2017, wherein this very aspect with regard to the refund of scrutiny-fee has been considered and denied. We are in agreement of the said Division Bench judgment of this court and therefore, decline the prayer of the petitioner with regard to the refund of the scrutiny-fee for the reasons as mentioned in the above said judgment. Petitioner thereafter, has asserted that in the said very judgment, interests have been ordered to be refunded to the petitioner for the delayed refund of the licence-fee.

Let notice be issued in the present case limited to the extent of grant of interest on the delayed payment of the refund of the licence-fee.

On the asking of the court, Mr. Ankur Mittal, Additional Advocate General, Haryana accepts notice on behalf of the respondents. Reply to the writ petition be filed within a period of six weeks.

List on 17.02.2021.

Replication, if any, be filed prior to the next date of hearing.”

Learned counsel for the petitioner, on the basis of the judgment passed by the Division Bench of this Court in *The Panipat HSEB Employees Co-operative House Building Society Ltd.'s case (supra)* contends that the petitioner would be entitled to interest on the delayed refund of the licence fee as was granted in the said judgment vide order dated 19.01.2017.

Learned counsel for the respondents has opposed the prayer by

contending that the licence fee was not immediately refunded for the reason that the order which has been passed by the competent authority was appealable and further there was a possibility of adjustment of the said amount in other claims, if any.

This explanation of the counsel for the respondents is unacceptable as there is nothing which has come on record which would substantiate such a contention. Apart from that, the claim for interest as has been put forth by the counsel for the petitioner being covered in favour of the petitioner by the judgment passed by this Court in *The Panipat HSEB Employees Co-operative House Building Society Ltd.'s case (supra)*, the petitioner is held entitled to the same benefit as has been granted by the Court. The arrears of interest @ 8% p.a. be paid to the petitioner within a period of three months from today.

The writ petition stands disposed of with above observations/directions.

(AUGUSTINE GEORGE MASIH)
JUDGE

January 10th, 2023
Puneet

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No