

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

CWP-20548-2019

DATE OF DECISION: 24.07.2023

DR. RAJESH KUMAR JAIN

.....PETITIONER

VS.

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Keshav Pratap Singh, Advocate, and
Mr. Deep Inder Singh, Advocate, for the petitioner.

Mr. Arun Beniwal, D.A.G., Haryana,

Mr. Sanjeev Majra, Advocate, for respondents No. 2 to 4-HSVP.

G.S.SANDHAWALIA, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of '*mandamus*' directing the respondents for implementation of the speaking order dated 25.09.2018 (Annexure P-3), passed by respondent No. 2-the Administrator, HSVP, Gurugram. Further directions are sought to consider the representation (Annexure P-4) of the petitioner wherein prayer made was that the iron gate erected near plot No.1136-P, Sector 46, Gurugram be closed along with the main gates of Amity International School, Sector 46, Gurugram. The other gates manned by the Welfare Association were asked to be kept open and for keeping security guards for easy ingress and outgress.

2. The Administrator, HUDA decided the issue keeping in view the earlier directions issued in CWP-1712-2018 filed by the petitioner himself and noticed that the petitioner was running a hospital in plot

No.1499-P, Sector 46, Gurugram and had claimed access from the 30 meters sector road to the hospital on the ground that similar benefit was being granted to one property dealer and parity was also sought with the Amity School which had been granted the access. Resultantly, the Administrator came to the conclusion that there was no direct entry permissible from the service road on to the main 30 meters sector road as per the norms. The layout plan showed that the ingress and outgress was from 18 meters sector road constructed between plot No.1615-P and No.2380-P, Sector 46, Gurugram whereas the petitioner's plot was on the service road and they were free to use this passage entry to ingress the sector. It was noticed that passage provided to plot No.1136-P was not as per the approved layout plans and was against the norms and accordingly, the benefit was directed to be withdrawn and the Estate Officer was directed to take necessary steps. Further direction was also issued that the Resident Welfare Association would supervise the entry by keeping security guards for easy ingress and outgress for the public at large.

3. On 29.05.2023, we passed the following order:

“Let an affidavit be filed by respondent No.2-the Administrator, HSVP, Gurugram to ensure that the residents of Sector 46, Gurugram do not have direct access to the main road and the passage and entry provided to all plots of the said sector would be as per the approved layout plan. We are informed that though boundary walls have been raised to ensure that there is no passage from the gates which have been opened by the various residents but there is a passage for pedestrian movement. Accordingly, let steps be taken by the said Administrator to ensure that even the gates on the other side of the boundary wall are got removed by the occupants of the plots or by the Resident Welfare Association and no pedestrian traffic is also permitted to come on through the gaps of the boundary wall. Appropriate notices be issued to the concerned plot holders for violation of the terms of allotment to ensure that the sanctity of the development plan

remains and there is no direct access to the main road which is not only hazard to the traffic but also there is security issue to the main sector and it also affects the planned development of Gurugram. Let necessary affidavit be filed on the next date of hearing.

Adjourned to 24.07.2023.”

4. Today, an affidavit dated 20.07.2023 has been filed of Dr. Balpreet Singh, the Administrator, HSVP, Gurugram on behalf of respondents No. 2 to 4. The same is taken on record. In the said affidavit, it has been averred that the illegal entry near plot No.1136-P, Sector 46, Gurugram and that two entries near the Amity School have been completely closed by constructing boundary walls. It has further been averred that there is no direct access to the main road and the passage entry provided to all the plots of the said sector would be as per the approved layout plan and further there would be no passage from the gates which had been opened unauthorizedly by various residents. It was further averred that there was no passage for pedestrian movement and photographs were annexed as Annexure R-1.

5. The only parity which the petitioner has sought for plot No.1136-P has now been closed and therefore, the petitioner has no such grouse left. We have perused the photographs and a boundary wall has been erected at the said entry to plot No.1136-P. The said gate shall also be padlocked and closed and shall not be used as per the affidavit given. When the petitioner had purchased the said plot, he very well knew that the entry to his plot is from the service road and not from the main road and therefore, he has no legal right to seek access to the main road as it would mitigate against the land development of Gurugram. The Amity School has separately filed CWP-13609-2023 whereby its rights have been affected on account of the permission granted, which we are adjudicating separately. Merely because

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withdrawn, the petitioner cannot seek any parity and claim entry from the main 30 meters road.

6. Resultantly, we are of the considered opinion that the order dated 25.09.2018 (Annexure P-3) passed by the Administrator does not suffer from any infirmity as there is no such legal right of the petitioner to seek direct entry to the main road.

7. Resultantly, we do not find any ground to interfere in the impugned order and the present writ petition is accordingly, dismissed. Pending miscellaneous application (s), if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

24.07.2023
Nitin/Sailesh

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned	Yes	
Whether Reportable :		No