

LPA-1327-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1327-2023 (O&M)

Date of decision: 09.10.2023

Harvinder Singh

....Appellant.

Versus

State of Haryana and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. Karan Singla, Advocate and
Ms. Malvi Aggarwal, Advocate for the appellant.

Ms. Tanisha Peshawaria, DAG, Haryana.

Mr. Robin Dutt, Advocate for respondent No.5.

DEEPAK SIBAL, J. (Oral)

Through order dated 15.05.2023, for setting up a retail outlet dealership at Jagadhari, respondent No.5 was issued a No Objection Certificate (NOC) by the District Magistrate, Yamuna Nagar (for short, “DM”). Through a subsequent order dated 30.06.2023, the DM cancelled the NOC. The cancellation order was challenged by respondent No.5 before this Court through Civil Writ Petition No.15708-2023—Pushpesh Passi Vs. State of Haryana and others. One of the grounds raised in respondent No.5's petition was that before passing the impugned cancellation order the DM had neither issued any notice to respondent No.5 nor granted him any opportunity of hearing.

2. On being put to notice, learned counsel appearing for the DM

did not dispute the fact that before cancellation of NOC, respondent No.5 was neither issued any notice nor was granted any opportunity of hearing. On this ground alone, through order dated 25.07.2023 a learned Single Judge of this Court quashed the cancellation order dated 30.06.2023.

3. The appellant was not arrayed as a respondent in respondent No.5's writ petition. However, he was aggrieved by the setting up of the retail outlet dealership by respondent No.5 at Jagadhari. He had also filed an application before the National Green Tribunal, New Delhi (for short, "NGT") through which he sought to restrain respondent No.5 from setting up the retail outlet dealership at Jagadhari. Therefore, the appellant filed an application before the learned Single Judge seeking review of the order dated 25.07.2023. The appellant's review application was dismissed by the learned Single Judge on 01.09.2023. It is in these circumstances that the appellant has preferred the instant Intra Court Appeal through which he challenges the order of the learned Single Judge dated 25.07.2023 and 01.09.2023.

4. Learned counsel for the appellant submits that in the orders under challenge there is a factual error as prior to the passing of the cancellation order dated 30.06.2023 passed by the DM, there was a detailed enquiry conducted by the Sub Divisional Officer, Jagadhari (for short, "the SDO") and that in the appellant's application the NGT has also issued notice to respondent No.5. Thus, respondent No.5 could not complain of violation of principles of natural justice. It was further submitted that instead of contesting the matter pending before the NGT, respondent No.5 wrongly chose to file a petition before this Court challenging therein the order of the

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DM cancelling the NOC.

5. Learned counsel for the parties have been heard and with their assistance the records of the case have also been perused.

6. The cancellation order was to respondent No.5's prejudice. Therefore, before its passing principles of natural justice were required to be complied with. The state does not dispute that before cancellation of the NOC granted in favour of respondent No.5, the DM had neither issued any notice to him nor granted him any opportunity of hearing. Even if in an enquiry by the SDO, which formed the basis of the cancellation order by the DM, respondent No.5 had been put to notice, such enquiry report was required by the DM to be put to respondent No.5 for his objections/ comments. This was not done. That being so, no error is found in the impugned orders of the learned Single Judge, quashing the cancellation order passed by the DM. They do not warrant any interference at our end. Resultantly, the present appeal is dismissed. However, it shall be open to the DM to proceed against respondent No.5 from the stage immediately prior to the passing of the order dated 30.06.2023 but only after following the principles of natural justice, in accordance with law.

7. All pending applications, if any, also stand disposed of accordingly.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

09.10.2023

Komal

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