

2023:PHHC:130436

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-22642-2023 (O&M)
Date of Decision:-9.10.2023

M/s Raria Bricks UdyogPetitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Akshay Kumar Jindal, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 25.10.2022 (Annexure P-8) passed by Collector, Rewari vide which the license issued to Shri Prabhu Dayal, Proprietor of M/s Raria Bricks Udyog, Kanmajra, Rewari, District Rewari, has been cancelled. The petitioner also assails order dated 11.5.2023 (Annexure P-9), whereby the Appellate Authority i.e. Director-cum-Appellate Authority, Food, Civil Supplies and Consumer Affairs Department, Haryana, dismissed the appeal filed by petitioner against order dated 25.10.2022 (Annexure P-8). The petitioner also challenged aforesaid order dated 11.5.2023 (Annexure P-9) by way of filing revision petition before the Commissioner and Secretary, Government of Haryana, Food, Civil Supplies and Consumer Affairs Department, Haryana but the same was also dismissed vide order dated 29.8.2023 (Annexure P-11).
2. The father of petitioner namely Shri Prabhu Dayal had been issued a license in the year 1987 under Haryana Control of Bricks Supplies Order, 1972,

being Proprietor of 'M/s Raria Bricks Udyog', which was valid up to 23.12.1997. The said license was renewed periodically. Unfortunately, aforesaid Shri Prabhu Dayal, Proprietor of M/s Raria Bricks Udyog expired in the year 2010 and his son Inder Singh, however, continued running the said brick kiln and used to get the license renewed from time to time. However, vide impugned order dated 25.10.2022 (Annexure P-8), the said license was cancelled on account of alleged violations i.e. the brick kiln being situated within a distance of less than 1 kilometer from Industrial Training Institute, Saharanpur as well as another educational institution at Saharanpur and also Mahendergarh Railway Transmission Line as Clause-4 of Haryana Control of Bricks Supplies Order, 1972 (Annexure P-2) prescribes that no such brick kiln should be situated within a distance less than 1 kilometer from educational institutions and electricity transmission line.

3. Learned counsel representing the petitioner submitted that although the authorities concerned may be competent to cancel any license in question but rules of natural justice have been violated in the instant case inasmuch the petitioner was never afforded any notice before such cancellation as is also mandated by proviso to Clause-4(iv) of Haryana Control of Bricks Supplies Order, 1972, which reads as under:

“4(iv) If the licensee transfers his licence or the kiln, with respect to which the licence has been granted, to any other person without the previous permission in writing of the authority which granted the licence or contravenes any provision of this order or the licence, the District Magistrate may for reasons to be recorded in writing suspend or revoke the licence:

Provided that before suspending or revoking a licence a reasonable opportunity of being heard shall be afforded to the person concerned.”

4. Learned counsel for the petitioner further submitted that although the petitioner had preferred an appeal before the Appellate Authority but even the Appellate Authority did not appreciate that rules of natural justice have been violated and rather proceeded on another track i.e. Inder Singh not having informed the authorities concerned about demise of the original proprietor of M/s Raria Bricks Udyog namely Shri Prabhu Dayal i.e. father of Inder Singh.
5. Notice of motion.
6. Mr. Samarth Sagar, Additional Advocate General, Haryana, upon whom an advance notice had been served, accepts notice.
7. Learned State counsel has vehemently argued that it is a case where the brick kiln in question is situated within National Capital Region (NCR) and that since the State/Authorities are taking all kind of steps to control the environmental pollution, it was all the more necessary for the petitioner to comply with Haryana Control of Bricks Supplies Order, 1972 and since the brick kiln in question is situated within a distance of less than 1 kilometer from educational institution, the said license was required to be cancelled.
8. It has further been submitted that the license issued to 'M/s Raria Bricks Udyog' had been issued at the time when the sole Proprietor namely Shri Prabhu Dayal was alive, who expired in the year 2010 and that the said fact was never brought to the notice of the authorities concerned and the license was got renewed repeatedly by not bringing the said fact to the notice of the authorities concerned.
9. Learned State counsel further submitted that, in any case, the petitioner would be at liberty to apply for a fresh license for setting up brick kiln in accordance with Haryana Control of Bricks Supplies Order, 1972 and other rules as

applicable. Learned State counsel, however, could not dispute that in the present case notice had not been issued to the petitioner before cancellation of his license.

10. This Court has considered the aforesaid submissions.
11. While this Court is also of the opinion that all kind of strict measures should be taken for preventing environmental pollution but the instant case is such where apparently principles of natural justice have been violated inasmuch the license in question has been cancelled even without issuing any prior notice to the petitioner. Under these circumstances, the impugned order dated 25.10.2022 (Annexure P-8) passed by Collector, Rewari cannot sustain and is hereby set aside. The order dated 11.5.2023 (Annexure P-9) passed by Appellate Authority i.e. Director-cum-Appellate Authority, Food, Civil Supplies and Consumer Affairs Department, Haryana and order dated 29.8.2023 (Annexure P-11) passed by Commissioner and Secretary, Government of Haryana, Food, Civil Supplies and Consumer Affairs Department, Haryana are also consequently set aside. The matter is remanded back to Collector, Rewari to take a decision afresh in accordance with rules expeditiously preferably within a period of 15 days from today.
12. The instant petition stands disposed off accordingly.

9.10.2023

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No