

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P. No. 4014 of 2024 (O&M)
Date of decision: 28.02.2024

Devinder Singh Babla Petitioner

Vs.

State of Punjab and others Respondents

CORAM: HON’BLE MR. JUSTICE ARUN PALLI
HON’BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Ajaivir Singh, Advocate
for the petitioner.

Ms. Anu Chatrath, Senior Advocate with
Mr. Nishant Maini, Advocate
for the respondent-GMADA.

Mr. Gurminder Singh, Advocate General Punjab with
Mr. Shekhar Verma, Addl. A.G. Punjab.

ARUN PALLI, J (Oral)

The petitioner has prayed for the following substantive relief:-

“Civil Writ Petition under Article 226 of the Constitution of India with a prayer for issuance of writ in the nature of certiorari for setting aside of order dated 19.02.2024 (Annexure P-16) which has been passed by the Chief Administrator, GMADA (Respondent No.2) in a most unfair, illegal and arbitrary manner, amounting to gross abuse of power and the same is not sustainable in law since it is absolutely without any substantial evidence and has been passed without affording an opportunity of hearing to the petitioner. The said order is absolutely violative of Articles 14, 19 and 21 of the Constitution of India.

AND/OR

Prayer for a stay of operation of the said order and to order de-sealing of the said premises, in view of the peculiar facts of the case and in the interest of justice.”

We had heard the matter at length, when during the course of hearing, learned counsel for the parties have reached a consensus: even though a show cause notice as regards unauthorized construction, that purport to have been raised by the petitioner at his farm (situated in village Parol, Tehsil Majri, District S.A.S. Nagar), was served upon the petitioner, but the competent authority would issue a fresh notice in this regard. And after affording him due and adequate opportunity to submit response, the petitioner would also be heard before any formal orders are passed. In so far as the alleged misuser: ***that under the garb of ecotourism, the petitioner was using the premises/infrastructure that is created at the farm for commercial activities***, it is fairly conceded that since no show cause notice was ever served upon the petitioner in this regard, he would be issued a notice to show cause even regarding the misuser. And, as indicated above, after affording an opportunity to respond/submit reply, he would be heard by the competent authority before passing any orders, if so advised. Whereafter, the matter qua both the violations, i.e. unauthorized construction as also the alleged misuser of the site, would be determined, in accordance with law. And, since in the given circumstances, the impugned order dated 19.02.2024 (P-16), pursuant whereto, the farm house of the petitioner was sealed, pales into insignificance, the same be deemed to have been withdrawn. Accordingly, we direct the authorities to de-seal the farm house forthwith.

Learned counsel for the parties have further agreed that in the nature of alleged violations as also for the authorities to serve a specific notice, inspection of the site is inevitable. Therefore, the petitioner would extend every possible cooperation to facilitate the said process. However, the date and time for inspection would be fixed, subject to mutual convenience of the parties.

In so far as the apprehension being expressed by the learned Advocate General, Punjab, based upon certain documents that are shown to the Court across the bar, that the premises/infrastructure that petitioner has created at site would still be used for commercial activities, learned Senior counsel for the petitioner submits that neither the premises/infrastructure was ever used by him for any commercial activities in the past, nor would he do so till formal/necessary approval in this regard is obtained from the competent authority.

In the wake of the position sketched out above, we are not required to delve any further into the merits of the case. Accordingly, the petition is disposed of, in terms of the statements made by learned counsel for the parties.

Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the concerns/grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

28.02.2024
deepak/AK Sharma

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