

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 05.03.2024

1. CWP-5041-2024

M/s Add Growth Media Pvt. Ltd.Petitioner

Versus

State of Haryana and OthersRespondents

2. CWP-2496-2024 (O&M)

M/s Hi Impresssion Pvt. Ltd.Petitioner

Versus

State of Haryana and OthersRespondents

3. CWP-977-2024

M/s Astute Media Pvt. LtdPetitioner

Versus

State of Haryana and OthersRespondents

4. CWP-5116-2024

M/s Hindustan Publicity Pvt. Ltd.Petitioner

Versus

State of Haryana and OthersRespondents

5. CWP-5250-2024

M/s Go Live Outdoor Media Pvt. Ltd.Petitioner

Versus

State of Haryana and OthersRespondents

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

Present: Mr. Neeraj Gupta, Advocate for the petitioner(s).

Mr. Ankur Mittal, Additional Advocate General, Haryana with
Ms. Kushaldeep Kaur, Advocate for the respondents.

VIKRAM AGGARWAL, J.

1. By way of the instant judgment, we intend to decide the writ petitions titled above as in all the writ petitions, the issue involved is the same.

2. The facts are being primarily referred from **CWP-5041-2024**.

3. The petitioners in all the writ petitions are registered entities under the Haryana Urban Infrastructural Development Board and are working in the field of advertising and media. The petitioners pray for the issuance of a mandamus commanding the respondents to abide by the mandate of Bye-Law 3 of the Haryana Municipal Advertising Bye-Laws, 2022 (hereinafter referred to as the '2022 Bye-Laws') and to issue necessary instructions showing the term of display of the Outdoor Media Devices (for short 'OMD') to be three years and to accordingly charge the fee as per the schedule already issued to the petitioners.

3.1 The petitioners also seek a restraint *qua* auctioning of the OMD sites allotted to the petitioners which is scheduled to be held from 05.03.2024 to 07.03.2024.

3.2 In **CWP-977-2024**, the petitioner also challenges the order dated 11.12.2023 (Annexure P-14) passed by the District Town Planner, Municipal Corporation, Gurugram vide which, this very claim of the petitioner was rejected.

3.3 The facts as borne out from the writ petitions are that in pursuance to an online advertisement issued by the respondents, interested approved registered entities were invited to participate in the online auction for grant of advertisement rights and display of OMD. This auction was conducted under the 2022 Bye-Laws. The petitioners participated in the auction and being successful bidders, were allotted different sites for display of advertisements on Unipoles. In **CWP-5041-2024**, the petitioner was allotted nine sites in different areas of Gurugram. The rates at which the sites were allotted were different for each site

at ₹41,125/- per month for OMD No.331, the total amount payable per quarter

being ₹1,23,375/-. Similarly, ₹34,737/- per month for OMD No.336 and the total amount payable per quarter being ₹1,04,214/-; ₹2,57,350/- per month for OMD No.345 and the total amount payable per quarter being ₹7,64,350/-; ₹2,62,350/- per month for OMD No.346 and the total amount payable per quarter being ₹7,79,550/-; ₹2,64,850/- per month for OMD No.348 and the total amount payable per quarter being ₹7,94,550/-; ₹59,650/- per month for OMD No.543 and the total amount payable per quarter being ₹1,78,950/-; ₹85,525/- per month for OMD No.548 and the total amount payable per quarter being ₹1,78,950/-; ₹59,650/- per month for OMD No.552 and the total amount payable per quarter being ₹1,78,950/- and ₹2,54,700/- per month for OMD No.562 and the total amount payable per quarter being ₹7,64,100/- .

3.4 It has been averred that in the payment schedule, 12 quarterly installments had been shown meaning thereby that the sites had been allotted to the petitioners for a period of three years in terms of the provisions of Bye-Law 3 of the 2022 Bye-Laws but the respondents were wrongly insisting that the sites had been allotted only for one year.

3.5 It has been averred that the authorized representatives of the petitioner personally visited the office of the respondents many times and the respondents also agreed that the period of allotment would be for three years but nothing was given in writing. Since they backtracked and started saying that the allotments would not continue beyond one year, legal notice dated 05.08.2023 (Annexure P-11) was issued. It has also been averred that the petitioner-M/s Astute Media Pvt. Ltd in **CWP-977-2024** had earlier approached this Court by way of **CWP-19743-2023** which was disposed of on 06.09.2023 with a direction to the respondents to decide the legal notice and in pursuance whereof order dated 11.12.2023 had been passed by the respondents rejecting the claim of the petitioner.

3.6 It has also been averred that the same sites have now been put on auction by the respondents for a tenure of three years and the process of bids is slated from 05.03.2024 to 07.03.2024. It has been averred that though the OMD numbers against which the auction is to be held has not been mentioned, the sites have been mentioned which are the same as those allotted to the petitioners.

4. On advance copy having been served, Mr. Ankur Mittal, learned Additional Advocate General, Haryana alongwith Ms. Kushaldeep Kaur, Advocate is present on behalf of the respondents.

5. We have heard learned counsel for the parties.

6. Learned counsel for the petitioner has strenuously urged that the action of the respondents in allotting the sites for a period of one year only is contrary to the provisions of Bye-Law 3 of the 2022 Bye-Laws and that even the schedules of payment (Annexures P1-P9) show that the schedule was for a period of three years whereas the respondents have arbitrarily declined to accept payments beyond a period of one year and have illegally put the sites to the auction for a period of three years. It has been submitted that the very fact that the sites are now being put to auction for three years shows that the action of the respondents in insisting that the sites had been allotted to the petitioner for one year only is erroneous and illegal. Learned counsel has submitted that even in the speaking order passed on 11.12.2023, no valid reasons have been given by the respondents for rejecting the claim of the petitioner. Learned counsel referred to each and every document annexed with the writ petition/s and made strenuous efforts to convince the Court that the period for which the OMD sites had been allotted should be three years and not one year.

7. Per contra, Mr. Ankur Mittal, learned Additional Advocate General, Haryana has submitted that the online advertisement clearly stated period/timeline of the site to be one year. He submits that even the letter of intents issued to the

petitioner/s clearly mentioned that the period for which the sites had been allotted was one year i.e. w.e.f. 01.03.2023 to 28.02.2024. As regards the payment schedule, it has been submitted that the payment schedule was given only for four quarterly payments i.e the payment due on 01.03.2023, 02.06.2023, 03.09.2023, and 04.12.2023. Learned counsel has submitted that though the schedule mentioned installments No.05 to 12 also but the letter of intent clearly mentioned that these installments were not required to be paid as the same were not for the approved time period. It has been submitted that the petitioner has made an effort to mislead the Court by placing on record time schedules which do not clearly depict the picture. Learned counsel produced the letter of intents and the advertisements for the perusal of the Court during the course of arguments which have been retained on record as **Mark X (Colly)** and **Mark Y (Colly)**.

7.1 Learned counsel has submitted that once the petitioners applied in pursuance to an advertisement which mentioned the period to be one year and were allotted the sites for a period of one year which is clear from the letter of intents and further the payment schedule was also for a period of one year, they cannot be permitted now to turn around and submit that the period should have been three years. Learned counsel has submitted that it is a case of a contract having been entered between the parties which would bind the parties to the same.

8. We have given our thoughtful consideration to the arguments addressed by learned counsel for the parties and have also perused the paper books as also the documents produced by learned Additional Advocate General, Haryana during the course of arguments.

9. Bye-Law 3 of the 2022 Bye-Laws provides for display of OMD within municipal limits;

***“3 (1) The bye-laws shall permit different types of OMDs to be displayed within municipal limits. The typologies of OMDs are defined in Annexure 5.*”**

(2) The following shall be the criteria for period of validity for which permission to display OMD shall be allowed, namely:

- (i) Type A: three years; between the concerned Government entity and the registered entity or upto five years, in case the Government entity requests so;*
- (ii) Type B and Type C: three years (with advance quarterly payments);*
- (iii) Type D: As specified in Clause 12 of Schedule-I;*
- (iv) Type E: As specified on case to case basis;*
- (v) Type F: self-advertisement: no restriction for advertisements if within the permissible limits set out in Schedule I;*
- (vi) Type G: As specified on case to case basis; three years (with advance quarterly payments);*
- (vii) Type H: three years (with advance quarterly payments);*
- (viii) Type I: three years (with advance quarterly payments);*

(3) All approvals for OMDs of the type and time period as specified shall be reckoned from the 1st day of the month succeeding the month in which approval is granted up to the last day of the month in which the period limit ends.

(4) All existing permitted OMDs shall have to comply with these Bye-Laws within fourteen days from the date of notification and no grace period shall be given. All OMDs not in compliance shall be treated as illegal and Municipality shall take appropriate action as per bye-law 22.”

10. The typologies referred to in Bye-Law 3 are described in Annexure 5 of the 2022 Bye-Laws;

Typology	Typology Description
A.	Typlogoy A: OMDs on public transport services/street furniture and public transport system
A1	Bus and Intermediate Public Transport (IPT) shelters

A2	Bus and IPT route markers
A3	Foot Over Bridges, Signage gantries, toilet blocks and urinals
A4	Cycle Stand/Station
A5	Police booth, parking booth, telephone booth, pre-paid taxi booth, bus/rail booking information booth, drinking water facility, public utility kiosks, outside colonies to facilitate directory/payment of bills etc.
A6	Sitting bench, garbage bins
A7	Metro/MRTS
A8	Traffic barricading
A9	Public transport vehicle
B.	Typology B: OMDs on commercial advertising structures on public land
B1	OMD on public land
C.	Typology C: OMDs on commercial advertising structures on private land
C1	Unipoles, billboards, building boards.
C2	Wall wraps/wall painting
C3	Multiple OMDs.
D.	Typology D: Events
D1	Religious, Political and Conferences
D2	Entertainment and Exhibitions events
E.	Typology E: Landscape advertising
E1	Tree guards
F.	Typology F: Shop signage
F1	Self-Advertising

G.	Typology G: innovative advertising
G1	Innovative advertising
H.	Typology H: cinema advertising
H1	In-cinema on screen advertising including slides and advertisement films (moving advertisements).
I.	Typology I: Inside commercial buildings and public buildings
I1	Inside commercial buildings and public building

11. The OMD sites in the writ petitions pertained to categories B and C, as has been mentioned in the writ petitions.
12. For reasons best known to them, the petitioners have not annexed the advertisement or the letter of intents issued to them. It would be relevant to mention here that in **CWP-5250-2024**, even the letter of intents have not been issued and it was pointed out during the course of arguments that the petitioner in **CWP-5250-2024** has installed the OMDs without any letter of intent having been issued and is not paying the requisite fee also. In **CWP-977-2024**, the letter of intent has been placed on record as **Annexure P-5**. The advertisements which were produced by learned Additional Advocate General, Haryana as also the letters of intent produced by him and the letter of intent (**Annexure P-5**) in **CWP-977-2024** show that the petitioners had been approved for displaying of advertisements at unipoles on the land of Municipal Corporation, Gurugram for a period of one year w.e.f. 01.03.2023 to 28.02.2024. Even the size of the unipole was specified. It is quite strange that after having applied in pursuance to the advertisement and having been allotted the sites by way of letters of intent both mentioning the period to be one year, the petitioners have knocked the doors of this Court to say that the period should have been three years. Merely because **Bye-Law 3** of the 2022 Bye-Laws provides for a period of three years would not,

under any circumstance, mean that the respondents were bound to allot the sites for a period of three years as the provision also does not say so and does not lay down any minimum period. Be that as it may, once the petitioners entered into a contract with the respondents and agreed to display the advertisements for a period of one year w.e.f. 01.03.2023 to 28.02.2024, they cannot be permitted today to turn around and contend that the period was supposed to be for three years. The petitioners would be bound by their own actions and cannot be permitted to go back on the same. It would also be relevant to mention here that the petitioner/s completed their term of one year w.e.f. 01.03.2023 to 28.02.2024 and immediately prior to the expiry of the said period, filed the present petition/s challenging the auction scheduled to be held from 05.03.2024 to 07.03.2024. The attempt clearly was, therefore, to thwart the said auction process with a view to pressurize the respondents to give in to their illegal demand. This conduct of the petitioner/s is deprecated. In any case, as has been noticed above, the petitioner/s cannot now be permitted to contend that the period for which the contract had been awarded to them was supposed to be for three years.

In view of the aforesaid, we do not find any merit in the writ petitions and accordingly dismiss the same.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

05.03.2024
Prince Chawla

<i>Whether speaking/reasoned :</i>	<i>Yes/No.</i>
<i>Whether reportable :</i>	<i>Yes/No.</i>