



CWP-14580-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCWP-14580-2024 (O&M)Date of decision: 12.11.2024

Ecogreen Energy Gurgaon-Faridabad Pvt. Ltd.

....Petitioner

Versus

Additional Chief Secretary-cum-Principal Secretary, Government of
Haryana, and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWALPresent: Mr. Anil Mehta, Advocate, and
Ms. Livleen Brar, Advocate,
for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Mr. Ankur Mittal, Advocate,
Ms. Kushaldeep Kaur, Advocate,
Ms. Saanvi Singla, Advocate,
for the respondent-M.C., Gurugram.

ARUN PALLI, J. (Oral)On 19.06.2024, a Coordinate Bench had passed the
following order:-

“Prayer in the present petition is for quashing of the Termination Notice dated 14.06.2024 (Annexure P-2) issued by Municipal Corporation Gurugram (hereinafter referred as "MCG") for termination of concessionaire agreement dated 14.08.2017 (Annexure P-1) between the respondents and the petitioner company for development of Integrated Waste Management (Collection, transportation, processing and disposal) in Faridabad-Gurugram Cluster, served with malafide and ulterior motive, in derogation to the



concessionaire agreement as the grounds mentioned in the termination notice dated 14.06.2024 are perfunctory illegal, concocted and away from the ground reality and are being challenged inter alia on the following points:-

a) The pre-conditions stipulated in the Concessionaire Agreement, specifically the provision of site, transfer stations and sanitary landfill, has not been fulfilled by the MCG.

b) The invoices submitted by the Petitioner, amounting to over 100 crore rupees, remain unpaid by the Department of Urban Local Bodies.

c) The termination of the Concessionaire Agreement was executed to confer undue advantage upon other local agencies, motivated by political considerations. This action reflects a deliberate and improper use of authority to favor certain entities over the Petitioner, thereby compromising the integrity of the contractual relationship and undermining the principles of fairness and equity.

d) The notice was served at the highly irregular hour of 12:51 AM, which, in itself, is indicative of mala-fide intent on the part of the respondents. The timing of this service strongly suggests an ulterior motive and a deliberate attempt to undermine the procedural fairness owed to the Petitioner. This unconventional hour for the delivery of such an important notice further underscores the respondents' intention to disadvantage the Petitioner unjustly.

e) The Termination Notice dated 14.06.2024 deviates from the terms and conditions stipulated in the Concessionaire Agreement. This deviation represents a breach of the contractual obligations



agreed upon between the parties, thereby infringing upon the rights and expectations vested in the Petitioner under the terms of the agreement.

Learned Senior counsel has submitted that the petitioner has entered into agreement with respondent-MC on 14.08.2017, however, without adhering to the terms and conditions of the agreement, respondent-MC has terminated the agreement vide impugned order dated 14.06.2024. It is submitted that the impugned order is totally unsustainable in the eyes of law as the terms and conditions of the agreement have not been followed.

Notice of motion for 04.07.2024.

Mr. Vikrant Pamboo, Sr. DAG, Haryana, accepts notice on behalf of respondents No.1 and 2.

Mr. Ashish Yadav, Advocate accepts notice on behalf of respondents No.3 and 4 and submits that similar issue involving in the present petition is pending before this Court in CWP-25661-2023, which is fixed for 19.07.2024. He submits that till the next date of hearing, no coercive action would be taken against the petitioner.

Let the reply be filed on or before the next date of hearing.”

Learned counsel for the petitioner, with reference to Article 12.4 of the Concessionaire Agreement dated 14.08.2017 (P-1), submits that in the event of a default by the concessionaire, the respondent authorities could terminate the Agreement entered into between the parties. But, in the first instance, they are required to issue a preliminary notice to the concessionaire, who, in turn, within 30 days from the receipt of the said notice, shall submit to the Designated ULB, the manner in which it proposes to cure the underlying event of default (Proposal to Rectify). And, after exhausting the process envisaged under different



sub-clauses of Article 12.4 (*ibid*), the authorities, in sync with sub-clause (c) thereof, are entitled to issue a termination notice, setting out in detail the underlying event of default, and the date of termination of agreement between the parties would be a date occurring not earlier than 60 days from the date of the said termination notice. Whereafter, the procedure, as indicated in sub-clause (d) and (e) of Article 12.4, shall follow. It is submitted that a bare analysis of paragraph 15 of the termination notice dated 14.06.2024 (P-2) [page 182 of the paper book], reveals that the same has been issued/passed in apparent violation of the relevant provisions of the Agreement (*ibid*). He asserts that, ostensibly, the impugned notice is issued/passed, in terms of Article 12.4 (c) (ii) of the Agreement/Contract, but the same is made operative from the date of the notice of termination itself. Whereas, Article 12.4(c) (ii), as indicated above, envisages that the termination date would be a date occurring not earlier than 60 days from the date of the termination notice. Thus, it is urged that the impugned termination notice is not only palpably erroneous and violative of Article 12.4 (c) (ii) of the Agreement, but also gravely impairs the rights/interest of the petitioner.

Faced with this, learned counsel for the respondent-M.C. Gurugram, on instructions, submits that a formal written statement to the writ petition has since been filed, wherein the claim of the petitioner is vehemently disputed. It is also averred that the impugned termination notice be considered as a mere notice, as the final notice of termination is yet to be served upon the petitioner. Be that as it may, he concedes that the impugned termination notice is, indeed, indefensible, for it has been issued/passed in complete ignorance of Article 12.4(c)(ii) of the Agreement. Therefore, he, as always, fairly submits that the said termination notice be deemed to have been recalled/withdrawn. For the competent authority shall now issue a fresh notice of termination, in terms of the relevant clauses of the contract, and thereafter, proceed further with the matter, in accordance with law.

That being so, learned counsel for the petitioner submits that nothing substantive survives in the petition and the same be disposed of,



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in terms of the statement made by the learned counsel for the respondent-M.C. Gurugram.

In the wake of the position sketched out above and in terms of the statements made by learned counsel for the parties, the writ petition is, accordingly, disposed of.

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

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

12.11.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No