In the High Court of Punjab and Haryana at Chandigarh

1. **CWP No. 18676 of 2022 (O&M)**
Reserved on : 12.2.2024
Date of Decision: 29.2.2024

Vasant Valley Public School ......Petitioner

Versus

Union of India and others .....Respondents

2. **CWP No. 20134 of 2022 (O&M)**

Harbinder Singh Sekhon and others ......Petitioners

Versus

State of Punjab and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Argued by: Mr. Arjun Partap Atma Ram, Advocate and
Mr. Paramvir Singh, Advocate
for the petitioner (in CWP-18676-2022).

Mr. R.S.Bains, Senior Advocate with
Ms. Aarushi Garg, Advocate
for the petitioners (in CWP-20134-2022).

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Ashish Rawal, Advocate
for the respondents-UOI.

Mr. Brij Mohan Vinayak, Advocate
for respondent No. 6 (in CWP-20134-2022).

Mr. Gurinderjit Singh, Advocate for respondent No. 9.

Mr. Anand Chhibar, Senior Advocate with
Mr. Ateevraj Sandhu, Advocate
for respondent No. 6 (in CWP-20134-2022) and
for respondent No. 12 (in CWP-18676-2022).

Mr. Rishabh Gupta, Advocate
for respondents No. 12 and 13 (in CWP-20134-2022).

Mr. Suveer Sheokand, Advocate
for respondents No. 9 and 10 (in CWP-18676-2022) and
for respondent No. 11 (in CWP-20134-2022).

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SURESHWAR THAKUR, J.

1. Since both the writ petitions (supra), make a common challenge to the CLU dated 13.12.2021, whereby change of land user permission became granted to respondent No. 12 (in CWP-18676-2022), and, respondent No. 9 (in CWP-20134-2022), therefore both the writ petitions are amenable for a common verdict becoming made thereon.

2. The petitioner (in CWP-18676-2022) is a private self-financing, unaided, CBSE affiliated school, located in District Sangrur. The petitioner in the writ petition (supra), becomes aggrieved from Annexure P-12, wherebys respondent No. 12 has been permitted to establish a cement factory in District Sangrur but on agricultural land. The cement factory to be so established, is stated in the petition, to be occurring at approximately 300 meters from the petition institution, thereby it is averred, that not only there would be an environmental hazard to the staff, and, the children engaged in the relevant pursuit in the petition institution, besides there would be a deleterious effect, upon the agricultural land, thus proximate thereto. Moreover, it is also averred in the petition (supra), that thereby there would be endangerment caused to the health of all affected.

3. In CWP-20134-2022, the petitioners become aggrieved from Annexure P-7, wherebys respondent No. 9 has been permitted to establish a cement factory in District Sangrur, but over the lands reserved for agricultural purposes, and, for residential purposes. It is further averred in the petition (supra), that the petitioners are either living or farming on the land concerned, which shares a boundary wall with the land for which the CLU has been granted or is in close proximity to the said land, and, thus they would be directly affected by the setting up of cement factory on the

said land.

4. The conditions of the impugned CLU are extracted hereinafter:-

1. The CLU shall be in the hands of Shree Cement North Pvt. Ltd.

2. The applicant shall not bifurcate the site and shall develop the site as a single unit.

3. The issue of ownership of land is independent and exclusive of permission of change of land use. Therefore, the permission of CLU does not in any manner grant or affect ownership right of this land which shall be decided by the Competent Revenue Authority.

The applicant in whose hand this change of land use lies shall be bound by the decision of such Competent Authority.

4. The applicant shall also get the Building Plans under Punjab Factory Rules 1952 and shall get the Site Plan, Zoning and Building Plans approved from Department of Housing and Urban Development (HUD) also. The applicant shall not construct any building on the site before approval of Building Plans by HUD.

5. You shall submit the DPR approved from the Labour Department or shall submit DPR along with an undertaking regarding number of workers to be employed in the Factory at the time of submission of the Building Plans as per the provisions of Building Rules 2021 or as amended from time to time.

6. The applicant shall be responsible for any litigation, if any, regarding land in any court of law.

7. The applicant shall obtain NOC's from PPCB required under the Prevention and Control of Pollution Acts & Municipal Solid Waste Management and Handling Rules-2016 or any other relevant Act before undertaking any development/construction on the site. Further, the applicant shall also obtain NOC from PPCB under the Hazardous and

Other Wastes (Management and Tran's boundary Movement) Rules, 2016, if applicable.

8. The applicant shall obtain Consent to Establish (CTE) and other requisite approvals of PPCB before starting the development works at site and also shall abide by the terms and conditions of these approvals.

9. The applicant shall ensure the minimum distance from the nearby residential area, if any, as prescribed by PPCB, Department of Environment or other Competent Authority in this regard and as per Notification dated 25.07 2008 of the Department of Science, Technology & Environment, and Punjab.

10. The applicant shall submit provisional/final NOC issued by Fire Department along with the application for approval of Building Plans and shall also make necessary arrangements for fire safety on the site as per the norms of Fire Department.

11. The applicant shall obtain approval/NOC from Competent Authority to fulfill the requirement of Notification dated 14.09.2006 of Ministry of Environment, Forest and Climate Change, Govt. of India before starting development work on the site.

12. You shall not discharge waste water into the khaal/natural water body/drain passing nearby.

13. In case of any controversy amongst the Partners/ Directors or any litigation in any Court of law, this office shall in no manner be responsible/party to it.

14. This permission shall not provide immunity from any other Act/Rules Regulations applicable and the applicant shall obtain requisite permission from any other department/authority under any other Act at his own level.

15. The applicant shall make provision for the disposal of rain/storm water of the proposed project and shall not obstruct the flow of rain/Storm water of the surrounding area.

16. The applicant shall make provision of rain water harvesting within the project area at its own cost.

17. The applicant shall get the permission/NOC as per PEDA guidelines (if applicable) from the concerned Competent Authority.

18. The applicant shall make its own suitable arrangement for provision of drinking water supply and disposal of sewage and solid waste management.

19. The applicant shall be liable to pay the charges/ differential amount of charges, if any, found at any point of time by any department or concerned Development Authority as and when demanded.

20. As per Notification issued vide Memo No. PUDA/CA/2013/1713-16, dated 27.02.13, the promoter shall not use underground water for construction of development works in the notified area. The applicant shall use surface water sources or treated water from nearby Sewage Treatment Plant.

21. The applicant shall obtain NOC from the Forest Department, under Forest Conservation Act, 1980 or any other Act of Forest Department, if required.

22. The applicant shall abide by the provisions of the PRTPD Act-1995 as amended from time to time.

23. The site falls in Notified Master Plan, Sangrur. Since site comes under non- conforming land use zone of notified Master Plan, Sangrur, you shall be bound to accept the provisions of section 79 and other rules/clauses of "The Punjab Regional and Town Planning and Development Act, 1993" as and when required.

24. The applicant shall maintain clearance yone (Horizontal and Vertical) beneath 11 KV II.T. Line or any other line as per the norms of PSPCL and shall not construct any building/structure beneath these electric lines passing through *the site or shall get these lines shifted with the permission of the Competent Authority of PSPCL.*

25. The applicant shall leave 3'-10.5" wide strip of land from your own site to widen the casting 52-3" wide Revenue rasta/ Road 60-0" and this area shall be part of public rasta/road as per undertaking submitted by you.

26. You shall keep the revenue rasta khasra no. 21/1 or any other rasta passing through site unobstructed.

27. You shall demolish the abandoned house already existing in site.

28. You shall leave 15 meter vide green buffer all along the boundary of your site and shall be maintained with broad leaf plantation.

29. The site falls in Potential Zone No. 5 as per Notification No. 17/17/2001-5Hg2/PF/748168/17 dated 06.05.2016. The applicant has deposited the EDC charges of Rs. 48,02,670/- and SIF charges of Rs. 2.40,140/- Total Rs. 50,42,810/- as per online Transaction Id Ref. No. 553323366 dated 10.12.2021."

Submissions of the learned counsels for the petitioners

5. The common ground raised in both the writ petitions to make a challenge to the CLU emanates, from a breach being caused to the mandatory statutory provisions, as become encapsulated in Section 76 of the Punjab Regional and Town Planning and Development Act, 1995 (hereinafter referred to as, 'the Act of 1995'), provisions whereof become extracted hereinafter.

"76(1) At any after time after the date on which the Master Plan for an area comes into operation, and at least once after every ten years, after that date, the Designated Planning Agency shall after carrying out such fresh surveys as may be considered necessary or as directed by the [State Government], prepare and submit to the [State Government], a Master Plan

after making alterations or additions as it considers necessary.

(2) The provisions of [Sections 70 and 75] shall mutatis mutandis as for as may be possible, apply to the Master Plan submitted under sub-section (1).”

6. The learned counsels appearing for the petitioners in both the writ petitions, have consistently argued with much force, before this Court, that despite admittedly, the cement factory to be established at the instance of the respondent concerned, is to be established in an area which rather was in the unamended master plan, thus notified as becoming reserved for non-industrial purpose. Contrarily, when in the unamended master plan, rather the disputed lands become reserved for agricultural, besides residential purposes. Therefore, it is further consistently contended, that when otherwise too, the proposed cement factory to be established, on such a prohibited zone, thus for thereons an industry being raised also rather is a red category industry. In sequel, it is contended, that the granting of the impugned conditional CLU condition, thus without at the stage of its becoming assigned to the respondent concerned, there being any amendment made to the master plan, thus in terms of Section 76 of the Act of 1995, resultantly the issuance of the impugned CLU is completely unlawful. Both the learned counsels have also referred to a decision drawn by the Divisional Town Planner, Sangrur on 30.9.2021 (Annexure P-11 in CWP-201345-2021), whereby a declaration exists, that any red category industry can be granted permission in mix land user in terms of notification dated 24.9.2021 (Annexure P-16), and, notification dated 12.11.2021 (Annexure P-17). The relevant portions of the above becomes extracted hereinafter.

(Annexure P-16)

“*x x x x x x*

B. Industry in the Mix Land Use Zone:-

(i) All orange and red category of industries along with other activities permissible in Mix Land Use Zone shall be allowed along the highway/major roads beyond 4 kilometers from the municipal limits of Amritsar, Jalandhar and Ludhiana Corporation, 3 kilometers from the limits of other Corporation and Class-A town limits, and 2 kilometers from other towns.

(ii) No new residential development shall be permitted in the Mixed Land Use Zone, wherein Red and Orange industries are being permitted.

(iii) Wherever specific sitting guidelines are prescribed by State Govt./ PPCB, etc. for industries vis-a-vis residential areas/other establishments, the liability to adhere to these guidelines shall lie with the activity which comes later on vice-versa principles.

(iv) Wherever green buffer zone is required as per the PPCB norms, the activity which will comes later shall be liable to adhere to the norms of reserving minimum green buffer as per requirement from their own land.

x x x x x x"

(Annexure P-17)

"*x x x x x x*

(8) CLU for orange category industry will be given in the following zones of master plans

1. Industrial zone

2. Mixed land use zones beyond 4 kilometers from the municipal limits of Amritsar, Jalandhar and Ludhiana Corporation, 3 kilometers from the limits of other Corporation and Class-A town limits, and 2 kilometers from other towns.

Provided further in both above cases distance from the nearby abadi and institutions is as prescribed by Punjab Pollution Control Board.

3. Rural and Agriculture zones provided distance from abadi of minimum 50 pucca houses is 250 meters and distance *from abadi of 15 pucca houses is at least 100 meters.*

(9) CLU for red category industry will be given in following zones of master plans

1. Designated Industrial zones provided distance from nearby abadi and institutions is as prescribed by Punjab Pollution Control Board."

7. It is further contended, that though the establishment of red category industry(ies), are permissible to become so established in the mix land user zones, but it is further contended, that in respect of the relevant area, there are only rural, and, agricultural zones, besides when thereins rather only green, and, orange industries are permissible to be established. Therefore, they argued, that when in respect of the lands concerned, there is a prohibition against the establishment of a red category industry, which is the cement factory, and, which is proposed to be established in the zones reserved as such for agricultural, and, residential purposes. In sequel, it is contended, that the issuance of the impugned conditional CLU is made in blatant transgression of the said notifications.

8. The learned counsel for the petitioners also make a submission, that in the 40th, 41st, and, 42nd meeting chaired by the Hon'ble Chief Minister of Punjab, wherebys there were modifications/amendments, to the master plans concerned, yet therein there is no such articulation about amendments being made vis-a-vis District Sangrur, whereins, the cement factory of the respondent concerned, thus is proposed to be established. Consequently, it is argued, that till date the above notifications with the effect (supra), working against the respondent concerned, remain yet alive, thus thereby also there can be no foisting of any validity vis-a-vis the impugned CLU.

9. Furthermore, the learned counsel for the petitioners have argued, that the ex-post facto approval, as became granted to the CLU in the

43rd meeting of the Punjab Regional and Town Planning and Development Board (for short 'the Board'), under the Chairmanship of the Hon'ble Chief Minister, Punjab, does not yet envelop the said CLU with any aura of validity. The reason which they so advance, is that, thereby too, no ipso facto amendment or modification to the apposite master plan, thus can be assigned, nor thereby the impugned CLU acquires any aura of validity.

10. Therefore, they have argued, that in terms of a verdict made by the Hon'ble Apex Court in case titled as ***M.C.Mehta versus Union of India (UOI) and others***, reported in ***(2004) 6 SCC 588***, wherein it becomes expostulated, that, upon non-conformity to the master plan, and/or non-conformity to the statutory mandate encapsulated in the relevant statute relating to the valid amendments being made to the master plan concerned, thereby the taking up of any activity in the earmarked zones, in the master plan concerned, thus not earmarked for the taking up of said activity thereons, rather makes undertaking of the said activity to be a prohibited activity. The relevant para of the judgment (supra) becomes extracted hereinafter.

> *"69. Insofar as the Municipal Corporation of Delhi is concerned, we have already noticed its stand that non-conforming industrial units falling in category 'B' to 'F' whether polluting or not polluting which have come up in contravention of the Master Plan should not be permitted to operate and should be closed down. In this connection, reference can be made to a public notice issued by MCD informing the general public and owners/occupiers/operators of industrial units situated in non- conforming/residential areas that in compliance with the directions of this Court, the industrial activity in violation of the Master Plan of Delhi - 2001 be closed down immediately failing which the Municipal*

Corporation of Delhi shall forcibly close such units. All ad hoc licences granted, if any, shall stand revoked/cancelled. In respect of the industrial activity in Lal Dora, in the affidavit filed in October, 2002 by Chief Town Planner of Municipal Corporation of Delhi it has been stated that the proposal for the withdrawal of exemption notification would be placed before the Corporation. Nothing seems to have been done in that direction. It is not disputed that under the garb of exemption notification dated 24th August, 1963, all kinds of buildings have come up in the Lal Dora."

11. The learned counsels for the petitioners have also argued, that thereby the respondent concerned, cannot propagate either the principle of legitimate expectation, nor can they well propagate the principle of promissory estoppel, as the said promises are applicable only in terms of a verdict rendered by the Hon'ble Apex Court in a case titled as ***Shree Sidhbali Steels Ltd. And others versus State of U.P. and others***, reported in ***(2011) 3 SCC 193***, besides only when the purportedly made promise, which becomes purportedly reneged or breached by the maker thereof, thus is firmly embedded in compliance or adherence, being made to the relevant laws, which were in force or were applicable at the stage of the said purported promises being made to the entity or person, who is/are led to act upon the same. In other words, it is well settled, that the said principles cannot apply so as to compel the authority to do something which it is not allowed by law or rather is prohibited by law. The relevant paragraphs of the verdict (supra) are extracted hereinafter.

"30. In view of the observations made by the Division Bench of this Court in the reported decisions, the questions that fall for consideration of this larger Bench are whether a benefit given by a statutory notification can be withdrawn by the Government by another statutory notification and whether the

principles of promissory estoppel would be applicable in a case where concessions/rebates given by a statutory notification are subsequently withdrawn by another statutory notification.

31 It is an admitted position that the notification dated June 28, 1996, granting rebate to the industries set up in hill areas, was issued in exercise of powers conferred by Section 49 of Electricity (Supply) Act, 1948. By the said notification rebate in electricity charges to the extent of 33.33% was given to the industries, which were set up in the hill areas during the specified period. It is also an admitted position that thereafter, by notifications dated June 18, 1998 and January 25, 1999, issued in exercise of the powers conferred by Section 49 of the Act of 1948, the percentage of rebate granted by the earlier notification was reduced to 17%. However, by notification dated August 7, 2000 the benefit, which was granted to the industries set up in the hill areas regarding rebate in the electricity charges, was completely withdrawn. What is relevant to notice is that it is not in dispute that the notification dated August 7, 2000 withdrawing the benefits granted earlier, was issued in exercise of powers conferred by Section 24 of the Uttar Pradesh Electricity Reforms Act, 1999. The above mentioned fact makes it evident that the benefits, which were granted and/or curtailed in exercise of statutory powers, were subsequently withdrawn in exercise of another statutory power conferred by another statute, namely, Uttar Pradesh Electricity Reforms Act, 1999. In the light of above mentioned facts, the question whether principle of promissory estoppel would apply to exercise of statutory powers will have to be considered.

32. The doctrine of promissory estoppel is by now well recognised and well defined by catena of decisions of this Court. Where the Government makes a promise knowing or intending that it would be acted on by the promisee and, in fact, the promisee, acting in reliance on it, alters his position, the Government would be held bound by the promise and the promise would be enforceable against the Government at the *instance of the promisee notwithstanding that there is no consideration for the promise and the promise is not recorded in the form of a formal contract as required by Article 229 of the Constitution. The rule of promissory estoppel being an equitable doctrine has to be moulded to suit the particular situation. It is not a hard and fast rule but an elastic one, the objective of which is to do justice between the parties and to extend an equitable treatment to them. This doctrine is a principle evolved by equity, to avoid injustice and though commonly named promissory estoppel, it is neither in the realm of contract nor in the realm of estoppel. For application of doctrine of promissory estoppel the promisee must establish that he suffered in detriment or altered his position by reliance on the promise.*

33. Normally, the doctrine of promissory estoppel is being applied against the Government and defence based on executive necessity would not be accepted by the Court. However, if it can be shown by the Government that having regard to the facts as they have subsequently transpired, it would be inequitable to hold the Government to the promise made by it, the Court would not raise an equity in favour of the promisee and enforce the promise against the Government. Where public interest warrants, the principles of promissory estoppel cannot be invoked. Government can change the policy in public interest. However, it is well settled that taking cue from this doctrine, the authority cannot be compelled to do something which is not allowed by law or prohibited by law. There is no promissory estoppel against the settled proposition of law. Doctrine of promissory estoppel cannot be invoked for enforcement of a promise made contrary to law, because none can be compelled to act against the statute. Thus, the Government or public authority cannot be compell to make a provision which is contrary to law."

Reasons for rejecting the above submissions, and, for accepting the submissions, as become addressed before this Court by the learned counsel for the respondents.

12. A perusal of the above extracted provision of Section 76 of the Act of 1995, reveals that thereby the designated agency becomes empowered to at any time, after the date on which the master plan for an area comes into operation, and, at least once after every ten years, to carry out such surveys, as may be necessary, and/or as directed by the State Government, and, thereafter is empowered to prepare, and, submit to the State Government, the master plan, whereby the above additions or alterations are proposed vis-a-vis the prior thereto functional master plan concerned. Furthermore, sub-Section (2) thereof also speaks, that the provisions of Sections 70 and 75 of the Act of 1995 shall mutatis mutandis apply to the Master Plan submitted under sub-section (1).

13. The answer or the interpretation to the above extracted provisions, is none other than, there being an empowerment in the designated planning agency, to (i) at any time after the date on which the master plan for an area comes into operation, and, (2) at least once after every ten years, after making surveys, as deemed necessary rather to propose certain additions or modifications to the earlier made, thus functional master plan, and, to thereafter submit the said proposal to the State Government, thus for approval thereto becoming accorded by the State Government. Therefore, but obviously the signification of the statutory coinage "at any time" besides the signification of the statutory coinage "at least after every 10 years", is that, the apposite empowerment, becomes vested respectively in the agency concerned, and, in the appropriate Government, does not have any fetter or limitation in time, rather for undertaking the relevant exercise,

excepting that the additions or modifications to the functional master plan, rather becoming recoursed at least once after every 10 years.

14. Therefore, the coinage "at least once after every 10 years" which occurs subsequently to the coinage "at any time after the date on which the master plan for an area comes into operation" though prescribes, that the relevant alterations or additions, as deemed fit, to be made to the functional master plan, is to be done at least once after every 10 years. Nonetheless, the said proposal for alterations or additions, as deemed necessary to be made, thus through the employment of the statutory coinage "at least once after every 10 years" rather makes it incumbent, upon the respective agency, and, the Government specified thereins, to undertake the said exercise at least once after every ten years. Therefore, the said prescription is to be read as casting an injunction, upon the authority(ies) concerned, to make the said additions or alterations to the then functional master plan at least once after every 10 years, but yet the former thereto coinage "at any time after the date on which the master plan for an area comes into operation" when evidently has no pausings in time, or no fetters of limitation, whereby there is a well statutory restraint in time, upon the authority concerned, to even before elapsing of 10 years, thus undertake the relevant exercise, as contemplated thereins. Resultantly, the coinage "at least once after every 10 years", which occurs in the statutory provision only minimises the time qua the undertakings of the relevant statutory exercise, but when read in conjunct with the former thereto coinage "at any time after the date on which the master plan for an area comes into operation", thereby the undertaking of the relevant exercise, though is required to be made at least once after every 10 years, but yet the said undertakings of statutory

exercise(s), thus can be made even prior to the elapsing of 10 years since the coming into being of the functional master plan to which amendments or modifications are proposed.

15. In other words, the coinage "at least once after every 10 years" if is read to be carrying a signification, that only after 10 years, the relevant modifications/additions are to be made, upon the then functional master plan, thereby the former thereto coinage "at any time after the date on which the master plan for an area comes into operation", thus with untrammeled conferment of authority vis-a-vis all concerned, as mentioned therein, also to undertake the statutory exercise(s), as mentioned thereins, thus would be rendered completely purposeless or would become rendered redundant. Therefore, to avoid the apposite redundancy, the authorities concerned, are vested with a leverage to at any time opt to undertake the exercises mentioned in Section 76 of the Act of 1995, and/or the said exercises being not amenable to be deferred beyond 10 years, and, nor prior to 10 years, thus the makings of the relevant statutory actions, as contemplated in Section 76 of the Act of 1995, rather become barred. Contrarily, the authority(ies) becomes vested yet to at any time lesser than 10 years, thus opt to, thus may make such alterations or additions, as deemed fit in the functional master plan.

16. If so, it has to be determined that when the apposite master plan, which led to the making of the impugned CLU, as revealed by Annexure P-9 (in CWP-20134-2022), did come into force in the year 2015, whether the ex-post facto approval as became granted thereto on 5.1.2022 in the 43rd meeting headed by the Hon'ble Chief Minister of Punjab, is to be construed to be an amendment or modification thereto, rather within the ambit of the

significations (supra) assigned by this Court to the statutory coinages (supra), as occurs in Section 76 of the Act of 1995.

17. In the light of this Court concluding, that the empowerment vested in the authority(ies) contemplated in Section 76 of the Act of 1995, rather have no fetter in time. Resultantly, the earlier master plan of 2015, whereins, there was a prohibition against the raising of a red category industry, as proposed to be established by the respondent concerned, in the area concerned, thus did become subjected to valid alterations or amendments, rather through the ex-post facto approval being granted in the 43rd meeting of the Board headed by the Hon'ble Chief Minister of Punjab. Resultantly, to the said ex-post facto approval, thus validity is enjoined to be foisted. In sequel, the prohibition earlier created in the erstwhile master plan against the construction of a red category industry, as in the industry proposed to be raised by the respondent concerned, thus in the prohibited zone, rather is to be construed to be eased or relaxed, through an amendment being made to the master plan concerned. Though, the amendment to the master plan was not made in the 40th, 41st, and, 42nd meeting of the Board concerned, headed by the Hon'ble Chief Minister of Punjab, but the assigning of retrospective validity to the impugned CLU, rather in the meeting of the Board concerned, headed by the Hon'ble Chief Minister of Punjab, thus thereby fastens legality to the impugned CLU.

18. The reason for making the above conclusion stems, from the factum, that despite the CLU, to which retrospective validity became assigned, in the 43rd meeting of the Board, headed by the Hon'ble Chief Minister of Punjab, though at the time of its issuance becoming rather not backed by a well made amendment to the master plan concerned. However,

the ex-post facto validity assigned thereto in the 43rd meeting of the Board, rather appears to cloth the impugned conditional CLU with an aura of validity. The reason for making the said conclusion stems from the assigning of significations (supra), by this Court, to the above statutory coinages, and/or with this Court construing that there is no fetter in time rather restraining the exercisings of powers vested in the authorities concerned, through Section 76 of the Act of 1995. In sequel, even if in the 43rd meeting rather ex-post facto approval became granted to the impugned CLU or the said approval being post the issuance of the impugned CLU, yet again when the import of the coinage "at any time" as occurs in the former portion of sub-Section (1) of Section 76 of the Act of 1995, is that, thereby there is vesting of leverage in the authorities concerned, to at any stage post the issuance of the CLU, thus assign validity thereto. Resultantly the natural corollary thereof, is but that, thereby power to assign retrospective validity or ex post facto approval becomes vested in the competent authority which is the State Government, and, which did grant the relevant ex-post facto approval to the impugned conditional CLU.

19. Be that as it may, the terms of the CLU were apparently drawn in harmony with the letter of the SDM, Sangrur bearing No. 978 of 11.10.2021 (Annexure R-7), besides became drawn in harmony with the letter dated 19.10.2021 (Annexure R-9), whereins, the hereinafter echoings are made.

(Annexure R-7)

"1. Distance from Municipal Corporation Limit is more than 5 kilometers.
2. Distance from Class-A town and city is more than 1 kilometer.
3. Distance from any other town and city is more than 1 kilometer.
4. Distance from firni of village is more than 500 meters.

5. No wild life sanctuary within 500 meters.
6. Distance from National Highway is more than 500 meters.
7. Distance from State Highway/Scheduled road is more than 300 meters.
8. No 15 pucca residential houses within 300 meters.
9. No historical religious or monuments place within 300 meters."

(Annexure R-9)

"It is informed in continuation of the letter under reference on the subject cited above, as per Amended Zoning Regulations (Minutes of Meeting) circulated by Chief Town Planner Punjab vide Endorsement No.5780-5810 CTP(PB)/S.P.135 dated 24.09.2021, it is informed that the width of the road on which the site is situated is 52'-3" as per the revenue record. There is no population (Abadi) within a radius of 250 meters of the site and no cluster of 15 houses within the radius of 100 meters nor there is any approved residential project. The site is situated at a distance more than 3 kilometers from the municipal limit of Sangrur. The site falls within the Notified Master Plan Sangrur. As per directions issued vide above amended zoning regulations for earmarking industrial zone on more than 6 Karams wide roads in the district, this site can be earmarked as industrial."

20. Resultanly, when the ex-post facto approval become granted to the impugned CLU in the 43rd meeting of the Board. In sequel, the designated agency, as declared in Section 76 of the Act of 1995, when did in terms of sub-Section (1) of Section 76 of the Act of 1995, thus make the relevant surveys qua the relevant modifications or additions, rather being made to the then functional master plan. Therefore, despite in contemporaneity thereto rather no approval became granted by the State Government, but when approval thereto became granted post the issuance of CLU. Consequently, the ex-post facto approval made to the relevant proposal emanating from the designated planning agency, proposals whereof even become echoed in the impugned CLU, and, to which the ex-post facto approval also became granted by the competent authority concerned. Therefore, it can be said that the designated planning agency i.e. the SDM concerned, did in terms of sub-Section (1) of Section 76 of the Act of 1995,

rather make the relevant statutory surveys, besides it can also be said, that the said surveys are neither invented nor contrived, especially when ex-post facto assigning of validity to the said surveys or the relevant proposals rather became accorded by the competent government.

21. In the wake of the above, this Court is not required to be applying the expostulations (supra), as occurs in the judgments (supra), nor also this Court is required to be either delving into or adjudicating upon whether any legitimate expectation is to be endowed to the respondent concerned. This Court is also not required to be either delving into nor applying whether the principle of promissory estoppel is applicable vis-a-vis the respondent concerned. The reason is but simple, inasmuch as the promise, as made to the co-respondent concerned, as comprised in the impugned CLU, though at the stage of its making, rather was not clothed with any aura of validity, but since subsequently through a valid ex-post facto approval (supra) becoming accorded to it, therebys when the said promise has been acted upon. Resultantly, through the according of ex-post facto approval to the impugned CLU, there is rather no breach to the promise, as made to the respondent concerned, through the making of the impugned CLU, which was at the relevant time lacking in any statutory backing.

22. The ex-post facto approval granted to the impugned conditional CLU, is hemmed with severe limitations, and, thereby the said limitations work as a sufficient safeguard against any endangerment rather ensuing either to environment or causing any endangerment to the health of all concerned, thus through any manufacturing activity being done by the respondent concerned. Even otherwise, in case there is a breach of the said

condition at the instance of the respondent concerned, thereby at the relevant stage, it is open to the petitioners to invoke such remedy(ies), as permissible under law.

23. The conditional CLU, to which ex-post facto approval became granted, does well employ the principle relating to sustainable development, thereby also when there is balancing of economic growth, thus with the necessity of thereby no environment hazard being caused. Therefore too, the impugned conditional CLU does not require its becoming quashed and set aside.

Final order

24. In consequence, this Court finds no merit in the petitions (supra), and, is constrained to dismiss them. Accordingly, both the petitions (supra) are dismissed. The impugned conditional CLU is maintained, and, affirmed.

25. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

February 29th, 2024
Gurpreet

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