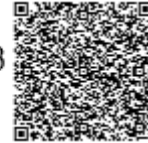


2025:PHHC:028326-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-15516-1999 (O & M)

Reserved on: 06.02.2025

Pronounced on: 25.02.2025

HARYANA URBAN DEVELOPMENT AUTHORITYPetitioner

Versus

REVISIONAL AUTHORITY AND OTHERSRespondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Deepak Balyan, Advocate
for the petitioner.

Mr. Vijay K.Jindal, Advocate
for respondents No. 2 and 3.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner herein-Haryana Urban Development Authority (hereinafter for short called as the HUDA), pray for the quashing of the order dated 23.07.1999 (Annexure P-10), as passed by respondent No.1, whereby, the respondents were allowed change of the trade and they were permitted to carry other commercial activities at the site concerned.

Factual Backdrop of the case.

2. A coal depot site in Sector 7 Panchkula was sold through open auction on 05.09.88 to Shri Amar Nath Jindal and Smt. Prem Lata Jindal (respondents No. 2 and 3 herein) by the Estate Officer, HUDA Panchkula. After depositing 25% price of the plot the appellants

2025:PHHC:028326-DB



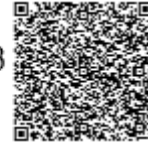
occupied the site and obtained occupation certificate on 30.08.1989. However, subsequently they started using the site for a crockery shop and also converted part of it into their residence. This was in gross violation of the terms and conditions of the allotment letter.

3. One Intzar s/o Abdul Gani alongwith Raj Kumar Dhiman filed CWP No. 3262-1997 in the Hon'ble High Court for issuance of directions to HUDA to take action against the allottees for misusing the site concerned. The said writ petition was disposed of vide order dated 06.03.1997 with directions to the Estate Officer, HUDA, Panchkula to look into the complaint and if the allegations made therein were found to be true, to take follow up action in the matter in accordance with law.

4. After issuing a show-cause notice to the allottee appellant, the Estate Officer, HUDA Panchkula vide his orders dated 27.08.1997 resumed the site under section 17 (4) of the HUDA Act for violation of the terms and conditions of the allotment. The Estate Officer came to the conclusion that the allottee had committed a breach of the terms and conditions of the allotment by the following acts:-

- i) Running General crockery House instead of Coal Depot;*
- ii) Using building as unauthorized residence;*
- iii) Raised unauthorized construction of 3 hall rooms, 2 bed-rooms, kitchen, varandha, one large room in middle of courtyard, extra bathroom and W.C.*
- iv) Unauthorized doors and windows towards HUDA parking towards two sides does not allow;*

2025:PHHC:028326-DB

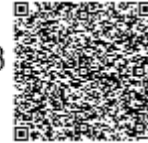


5. Feeling aggrieved, with the orders of the Estate Officer, the allottee filed an appeal before the Administrator, HUDA, Panchkula. However, the said appeal became dismissed vide order dated 27.10.1998 (Annexure P-9).

6. Feeling dis-satisfied from the aforesaid orders, respondent No. 2 filed a revision petition thereagainst before the Revisional Authority-cum-Commissioner & Secretary to Govt. Haryana, Town & Country Planning Department, Haryana. The said revision petition became allowed vide order dated 23.07.1999 (Annexure P-10). The operative part of the said order is extracted hereinafter.

“I have heard both the parties at length and perused the record of the case carefully. It is an admitted fact that the petitioners have violated the terms and conditions of the allotment letter. They are running a crockery shop at the site meant for running a coal depot and have constructed the building in violation of HUDA bye laws. However, taking an over all view of the matter I think the request of the petitioner does merit serious consideration. They lay out plan of the shopping centre Sector 7 Panchkula was approved way back in 1977. Since then there has been a tremendous change in the living standards of the public at large and their needs and requirements have also considerably changed. Whereas a sizeable section of the population of the town was earlier using coal as a domestic fuel, it has now been totally replaced by cooking gas and kerosene oil. Running of coal depot is not practical business proposition any longer nor does it now serve or meet any essential needs of the population of the town. According to the advice of Legal Remembrancer, HUDA dated 9.11.94 (copy available on the file) there is no legal bar for allowing change in the use of the site. Therefore, rather than taking a purely legalistic view, a practical

2025:PHHC:028326-DB



approach is called for in such matters. The apprehension of the officers of HUDA regarding creating a bad precedent and opening of flood gates of such cases, in my view, is also unfounded because each case has to be decided on its own merits. I am, therefore, of the opinion that the request of the petitioner for allowing change of the trade and permitting him to carry other commercial activities at the site can be allowed. However, it would be fair to charge a premium for this additional facility.

xxxxxx

If the allottee agrees to pay the additional price of the site as calculated above and undertakes to abide by the building bye-laws and zoning plans approved by HUDA for SCF sites then the resumed site may be restored and they may be allowed to occupy and continue alternative commercial activities at site. The price of the plot so calculated is to be deposited as under:

i) 25% of the additional payment so calculated to be deposited within 3 months of the date of intimation ;

ii) balance 75% to be paid in eight half-yearly instalments alongwith 15% interest and the balance amount starting from 01.01.2000 onwards.

In case of failure of the allottee to fulfil the conditions the site shall stand resumed and allottee shall have no claim on it.

7. The petitioner herein-HUDA cast a challenge to the afore said order made by the Revisional Authority.

Inferences of this Court.

8. The instant writ petition has been preferred by the HUDA against the order passed by the Revisional Authority, whereby, the Revisional Authority allowed the claim of the respondent.

2025:PHHC:028326-DB

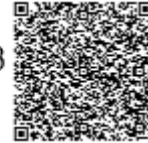


9. **For the reasons to be assigned hereinafter, this Court finds no merit in the writ petition and accordingly the same is rejected.**

10. The Revisional Authority upon making a comparative study of the economic viability qua the installation of a coal depot at the allocated site, proceeded to declare that installation of the fuel depot was as such but impragmatic besides was financially unviable. Therefore, the said reason appeals to the judicial conscience of this Court.

11. Be that as it may, even otherwise the change of user of the allocated site to the present respondents, thus for thereons becoming established a coal depot, to that of a crockery shop becoming established, does not make the said alteration to have any, ill impigning effect. The reason for stating so is justifiably stated in the underlined portions of the order (supra) passed by the Revisional Authority. The Revisional Authority has therebys ensured the emergences of the requisite balances, inter-se the existence of a eco friendly environment in the locality concerned, which otherwise would become impaired, through the operation of a fuel depot, rather with the consequent thereto effacings qua the potentiality of the stored therein coal resulting in carbon emissions, besides obviously with the fundamental right of the present respondents to engage in a eco friendly business or venture, as they have done, through theirs establishing a crockery shop on the subject property.

2025:PHHC:028326-DB



12. If the present respondents have changed the site, to the present nature of business activity, from the designated purpose of theirs establishing a coal depot thereovers, yet the said change reiteratedly when but brings a more suitable eco friendly enviornment. Moreover, when the establishment of a coal depot at the site concerned, would also be concomitantly inpragmatic besides would be financially unviable, as there is now an immense reduction in the use of coal by the consumers, as a source of energy, inasmuch as, now the consumers are using gas as a source of energy.

13. Therefore, the said alteration is in tune with the fundamental right of the respondents to practice business and profession, wherebys, if yet the said fundamental right endowed to the respondent to practice business and profession, thus, is fettered despite his making an alteration suitable both to the environment besides also to profess his business, therebys, there would be ill impigning vis-a-vis the supra fundamental right of the present respondents.

14. Resultantly both for ensuring the accruals of financial viability to the present respondents, rather from the instant tenable alteration of business becoming embarked into, besides also for ensuring that a sustainable environment exists in the neighbourhood of the site concerned. In sequel, this Court finds no merit in the writ petition and the same is dismissed.

15. The impugned order passed by the Revisional Authority concerned, is maintained and affirmed.

2025:PHHC:028326-DB



- 16. No order as to costs.
- 17. Since the main case itself has been decided, thus, all the pending application(s), if any, are disposed of as such.

(SURESHWAR THAKUR)
JUDGE

25.02.2025
kavneet singh

(VIKAS SURI)
JUDGE

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