



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-10254-2003 (O&M)
Date of Decision: 10.12.2025**

MOOL RAJ GUPTA

...Petitioner

Vs.

STATE OF PUNJAB AND ORS.

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present:- Mr. Vivek Salathia, Advocate
for the petitioner

Mr. Arun Jindal, Addl. A.G. Punjab

Mr. D.V. Sharma, Sr. Advocate with
Mr. Tushar Sharma, Advocate
for respondents No.2 and 3

JAGMOHAN BANSAL, J. (ORAL)

1. On 13.10.2025, the following order was passed by this Court:-

“The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking writ of prohibition restraining the respondents from recovering/collecting/charging conservancy fee/charges.

The instant petition was originally filed by Mool Raj Gupta who was owner of a Hotel named Pagasus. He sold his property and at present Deepika Arora is owner of the Hotel. The aforesaid Hotel came into existence before 1947. The State Government in exercise of power conferred by Punjab Municipal Act, 1911 (for short ‘1911 Act’) vide notification dated 05.08.1942 levied scavenging tax. The 1911 Act came to be repealed by Section 431 of Punjab Municipal Corporation Act, 1976 (for short ‘1976 Act’). 1976 Act came into force w.e.f. 01.01.1977. As per Section 428 of 1976 Act,

notifications, notices, taxes levied by 1911 Act are saved. For the ready reference, Sections 428 and 431 of 1976 Act are reproduced as below:

“428. Continuation of appointments, taxes, budget estimates, assessments, etc.—

Save as expressly provided otherwise in this Act,-

(a) any appointment, delegation, notification, notice, tax, order, direction, scheme, licence, permission, registration, rule, bye-law, regulation, form made, issued imposed or granted under the Punjab Municipal Act, 1911, or any other law in force in any local area, constituted to be a City or included in a City, immediately before the appointed day shall, in so far as it is not inconsistent with the provisions of this Act, continue in force until it is superseded by any appointment, delegation, notification, notice, tax, order, direction, scheme, licence, permission, registration, rule, bye-law or form made, issued, imposed or granted under this Act or any other law as aforesaid, as the case may be;

(b) all proceedings for acquisition of land whether in pursuance of any scheme of improvement or otherwise initiated under the Punjab Municipal Act, 1911, or any other enactment applicable to the area included in the City may be continued as if these had been initiated under this Act;

(c) all budget estimates, assessments, valuations, measurements, and divisions made under the Punjab Municipal Act, 1911, or any other law in force in any area constituted to be a City or included in a City immediately before the appointed day shall, in so far as they are consistent with the provisions of this Act, be deemed to have been made under this Act

(d) every officer and other employee serving immediately before the appointed day under the municipal committee for the area which has been

constituted to be a City or under any other local authority the whole of local area whereof has been included in a city, other than those referred to in sub-section (1) of section 71, shall be transferred to and become an officer or other employee of the Corporation with such designation as the Commissioner may determine and hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held the same if the city had not been constituted or the local area had not been included in the city, as the case may be, and shall continue to do so unless and until his employment in the Corporation is duly terminated or until the remuneration, terms or conditions of service are duly revised by the Corporation:

Provided that the conditions of service applicable to them immediately before the appointed day shall not be varied to their disadvantage except with the previous approval of the Government.

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431. Repeal.- *The Punjab Municipal Act, 1911, the Punjab Municipal (Executive Officers) Act, 1931, the Punjab Gram Panchayat Act, 1952 and the Punjab Panchayat Samitis and Zila Parishads Act, 1961, shall stand repealed in the area constituted to be a City or included in a City with effect from the day on which it is so constituted or included.”*

The Municipal Corporation, Amritsar vide resolution No.16/25 dated 07.11.1997 decided to increase rate of conservation charges.

Learned Senior counsel, at the outset, submits that petitioner has not assailed validity of resolution dated 07.11.1997 thus, respondent cannot be prohibited from affecting recovery as per said resolution.

Learned counsel representing the petitioner submits that petitioner does not dispute levy of scavenging and

conservation charges under 1911 Act and dispute is confined to power of respondent to enhance rate of tax which was levied under 1911 Act. The Corporation may levy any tax as per Section 90 of 1976 Act, however, tax levied under repealed Act cannot be increased.

Adjourned to 11.11.2025.”

2. The petitioner has filed application seeking amendment of writ petition. In the application, the petitioner is seeking permission to amend writ petition which would entail assailing of resolution passed by Municipal Corporation Amritsar.

3. Learned Senior Counsel for the respondent-MC submits that till date neither demand notice nor assessment order has been passed against the petitioner. In the absence of demand, the writ petition is premature.

4. Learned counsel for the petitioner expressed his inability to controvert the fact that till date respondent has neither framed assessment nor issued demand notice.

5. In the absence of assessment order or demand notice issued by respondent to petitioner, we find that present petition is premature. The petitioner would get cause of action, the moment show cause notice or demand notice is issued to him or assessment order is framed against him. The petitioner in the main petition sought prohibition from collecting/charging conservancy fee. There cannot be general order of prohibition unless and until there is demand from the ones filing petition.

6. In the wake of above discussion and findings, we are of the considered opinion that the instant petition being premature deserves to be dismissed and accordingly dismissed.

7. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

December 10, 2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No