

2025:PHHC:026986-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Reserved on : 29.01.2025
Pronounced on : 25.02.2025

<i>Sr. No.</i>	<i>Case Number</i>	<i>Title of the case</i>
1.	CWP-37270-2019 (O & M)	M/S GOLDEN INFRASTRUCTURE PRIVATE LIMITED VS. STATE OF PUNJAB AND ANOTHER
2.	CWP-19101-2022 (O & M)	M/S GOLDEN INFRASTRUCTURE PRIVATE LIMITED VS. STATE OF PUNJAB AND OTHERS

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

Argued by: Mr. Dheeraj Mahajan, Advocate
for the petitioner(s).

Mr. Maninder Singh, Sr. DAG, Punjab.
Ms. Monika Jalota, Sr. DAG, Punjab.

Ms. Anu Chatrath, Senior Advocate with
Ms. Dhamanpreet Kaur, Advocate
for respondent No. 2 – GMADA (in CWP-37270-2019).

Mr. Prashant Rana, Advocate
for the respondent – GMADA (in CWP-19101-2022).

SURESHWAR THAKUR, J.

1. Since both the writ petition(s) involve common questions of facts and law, therefore, they are amenable to be decided through a common order.
2. However, the facts of both the writ petition(s) are required to be separately delineated.

2025:PHHC:026986-DB



CWP-37270-2019

3. Through the instant writ petition, the petitioner-company herein prays for quashing the actions of respondent No. 2 in treating the petitioner's colony named as **Golden Homz Village Kotla Nihang, Roopnagar in Potential Zone Low – II** without passing any specific order in the said regard, besides seeks the quashing of the demand notice dated 16.10.2018 (Annexure P-23) and demand notice dated 12.04.2019 (Annexure P-26) vide which the petitioner has been directed by respondent No. 2 to deposit the EDC, license fee as per the **Potential Zone Low – II**.

4. Further, the petitioner seeks the issuance of a writ of mandamus directing the respondents to declare the petitioner's colony named as **Golden Homz** to be falling in **Potential Zone Low – IV** in terms of policy/instructions issued vide notification dated 22.06.2010 (Annexure P-1).

CWP-19101-2022

5. The petitioner herein-company prays for the issuance of a writ in the nature of mandamus directing respondent No. 3-GMADA to grant approval to the revised estimates for development of the residential colony named as Golden Homz, in terms of condition No. (b) (c) and (d) of Letter of Intent issued by respondent No. 3 and to renew the license dated 31.05.2012 as per the RERA Guidelines

6. Further, the petitioner seeks for the issuance of a direction to respondent No. 3 to lift the ban imposed on it, on registration of the

2025:PHHC:026986-DB



sale deeds of sold plots falling in 'Golden Homz' and to make good the loss of interest and penalty levied on the EDC charges.

Factual Background.

7. The petitioner company is promoter and developer of colony named **Golden Homz** at Village Kotla Nihang, District Roopnagar. Respondent No. 1 issued policy instructions vide notification dated 22.06.2010 re-defining the various potential zones in the State of Punjab. The said notification is extracted hereinafter.

No. 17/17/2001-5HG2/P.F./1817

Dated Chandigarh, the 22 June, 2010

xxxxx

whereas there is a need to redefine the various potential zones in the state of Punjab on the basis of economic and social potential of the area to make it more realistic and functional.

Now in order to encourage development in settlite towns to reduce congestion in bigger towns, to make it more realistic and to salvage the Real Estate Projects, the Governor of Punjab is pleased to partially modify the notification No. 17/17/01-5HG2/7623, dt. 19.9.2007 and notification No. 17/17/01-5HG2/7639, dt 19.9.2007 as under :-

POTENTIAL ZONES IN PUNJAB OTHER THAN GMADA AREA

HIGH POTENTIAL ZONE	MEDIUM POTENTIAL ZONE	LOW POTENTIAL ZONE
High I Ludhiana within M.C. Limits	Medium I Patiala, Rajpura, Sirhind, Mandi Gobindgarh, Khanna and Phagwara within MC limits and 2 km on both sides of the portion of the following roads not covered under any potential zone :- 1. Ludhiana-Pakhawal-Raikot road 2. Ludhiana-Samrala-Morinda-Kharar road. 3. Ludhiana-Moga road	Low I Bathinda, Moga, Batala, Pathankot, Barnala, Malerkotla and Hoshiarpur within MC limits
High II	Medium II	Low II
a) Ludhiana outside MC limits within 15 km b) Jalandhar, Amritsar within M.C. Limits	Patiala, Rajpura Sirhind, Mandi Gobindgarh, Khanna and Phagwara outside MC limit upto 5 km and area 2 km on both sides of GT Road (NH1) and 1 km on both sides of the portion of the following roads not covered under any potential zone :- 1. Banur-Rajpura-Patiala road 2. Patiala-Sirhind road	Bathinda (outside MC limits within 15 km) Moga, Batala, Pathankot, Barnala, Malerkotla and Hoshiarpur all outside MC limits within 5 km And Sangrur, Sunam, Nabha, Faridkot, Kotkapura, Ferozepur, Malout, Abohar, Mukatsar, Kapurthala, Nawanshahar, Ropar , Tarn Taran, Gurdaspur, Samana, Jagraon, Mansa within MC limits and 1 km on both sides of the portion of the following roads not covered under any potential zone :- 1. Batala-Amritsar road 2. Kurali-Ropar-Nawanshahar-Phagwara road.
High III Jalandhar & Amritsar outside M.C. Limits within 15 km		
LOW III		
Sangrur, Sunam, Nabha, Faridkot, Ferozepur, Malout, Abohar, Muktsar, Kapurthala, Nawanshahar, Ropar , Tarn Taran, Gurdaspur, Samana, Jagraon, Mansa outside MC limits within 3 km and 1 km on both sides of		

2025:PHHC:026986-DB



the portion of the following roads not covered under any potential zone :-
xxxx
Low IV
All other towns and areas not covered in any potential Zone.

8. Before issuance of license for development of the aforesaid colony named as Golden Homz, the Junior Engineer and Deputy District Town Planner, Rupnagar, visited the spot and submitted a spot inspection report dated 30.08.2011 (Annexure P-2). The relevant portion of the said report is extracted hereinafter.

1.

This site is on Roopnagar to Chandigarh NH 21 Road, 1.765 K.M. from Roopnagar Bus Stand, one link road leads to village Phool Grewal from its left side and is situated in front of Govt. School and approximately 740 meters away from NH 21 road.
- xxxx

6.

Site is part of proposed master plan of Roopnagar and site falls under residential zone according to proposal.
7.

Site is outside the jurisdiction of Nagar Council Roopnagar.
8.

Agriculture area is in the eastern side. Open vacant place is on the north and west side whereas on the southern side there are residential homes and reaches link road and on the other side of road is Govt. High School and sports stadium.
9.

There is no heritage building and monuments within 100 meter circle of the site.
10.

Site falls under the category of Low Potential Zone (II) category according to the notification dated 22.06.2010 of the Govt.

9. Accordingly, demand notice was issued to the petitioner to deposit amount assessed by treating the petitioner's colony under Potential Zone Low – II. However, objections were raised by the petitioner to the said demand notice, on the ground, that as per notification dated 22.06.2010 (Annexure P-1), the petitioner's colony fell in Potential Zone Low – III and accordingly requested to re-calculate the EDC and license fee charges as per Potential Zone Low – III. Thereafter, the petitioner deposited the EDC and other charges to

2025:PHHC:026986-DB



avoid any penal action and the same was acknowledged by the respondents.

10. Further, respondent No. 2-GMADA issued additional demand notice dated 08.02.2016(Annexure P-13) calculating the EDC and license fee by treating the colony of the petitioner into **Potential Zone Low-II**. The petitioner made several representations requesting that the amount of EDC charges etc be re-calculated as the project of the petitioner falls in Potential Zone Low – III.

11. Owing to persistent demands of the petitioner Company, respondent No. 2 – GMADA vide its letter dated 20.11.2017 directed the Chief Town Planner, SAS Nagar, to submit its report as to whether the village Kotla Nihang fell within or outside the Municipal Council Limits.

12. Without waiting for the report of the Chief Town Planner, SAS Nagar, respondent No. 2 issued the impugned demand notice dated 16.10.2018 (Annexure P-23) directing the petitioner Company, to deposit the overdue amount of EDC etc. as per Potential Zone Low – II.

13. The petitioner also submitted a certificate issued by the Architect R.P. Singh, certifying that the project Golden Homes is 600 meter away from boundary lines of M.C. Rupnagar and 740 meter away from N.H. - 21.

Submissions of the learned counsel for the respondent -GMADA in CWP-37270-2019.

14. As per the policy dated 22.06.2010, the criteria for Zone Low – II was specified as under :-

2025:PHHC:026986-DB



Bathinda (outside Municipal limits within 15 kms) Moga, Batala, Pathankot, Barnala, Malerkotla and Hoshiarpur (all outside MC limits within 5 km) and

Sangrur, Sunam, Nabha, Faridkot, Kotkapura, Ferozepur, Malout, Abohar, Muktsar, Kapurthala, Nawanshahr, Ropar, Tarn Taran, Gurdaspur, Samana, Jagraon and Mansa (within MC limits) and 1 km on both sides of the portion of the following roads are not covered under any potential zone :

1. *Batala – Amritsar Road ;*
2. *Kurali – Ropar – Nawanshahar – Phagwara Road.*

The aforesaid criteria shows the fulfillment of twin conditions i.e.

- i) *Within MC limits.*
- ii) *Within 1 km on both sides of portion of the roads.*

15. As per own admission of the petitioner in paras No. 4 and 17 of the instant writ petition, the location of the colony developed by the petitioner falls within 740 meters from National Highway No. 21 i.e. Kurali – Ropar -Nawanshahar – Phagwara road, which means it is within 1 km of this road. Therefore, this colony clearly falls in Low Potential Zone – II as determined under the Policy dated 22.06.2010 (Annexure P-1) and hence the petitioner has been rightly charged EDC, CLU charges and License fee, according to the rates determined for Low Potential Zone -II, under, this notification dated 22.06.2010 issued by the Government. As such this writ petition filed by the petitioner is without any merit and the same is liable to be dismissed.

Submissions of the learned counsel for the respondent -GMADA in CWP-19101-2022.

16. The petitioner was issued letter of intent on 20.03.2012, for development of a colony on the land measuring 16.53 Acres, falling in

2025:PHHC:026986-DB



Village Kotla Nihang, Tehsil and District Roopnagar. Thereafter, he was issued colony license no. 08/2012 on 31.05.2012, for the development of the said colony. The layout plan of the said colony was submitted by the petitioner and was also approved by the Competent Authority-cum-Chief Administrator, GMADA on 31.05.2012. The said license was valid upto 30.05.2015. During the validity period of the said license, the petitioner submitted revised layout plan for approval on 14.05.2013, which was sent to Senior Town Planner, SAS Nagar, thus for technical sanction. However, the Senior Town Planner, SAS Nagar vide his letter No. 2108 dated 18.07.2013 had raised certain technical objections, which were conveyed to the petitioner vide letter No. 1925 dated 23.09.2013. The petitioner submitted revised layout plan on 06.08.2014. However, the Senior Town Planner, SAS Nagar again raised certain technical objections, which were duly conveyed to the petitioner vide letter No. 3751 dated 18.12.2014.

17. Moreover, the petitioner submitted revised layout plan on 24.12.2014 after removing certain shortcomings but the Senior Town Planner, SAS Nagar again raised certain technical objections vide his office letter No. 299 dated 16.01.2015. The petitioner removed technical objections by submitting revised layout plan on 25.04.2015, and, the said revised layout plan, was finally approved by the Competent Authority on 13.05.2016, after it was technically sanctioned by the Senior Town Planner, SAS Nagar.

18. However, neither the petitioner got renewed the colony license issued to him beyond 30.05.2016, nor he deposited the statutory

2025:PHHC:026986-DB



charges of EDC (External Development Charges), (License Fee) etc., which it was bound to pay as per Government Policies applicable from time to time. In this regard, demand notice was also issued to the petitioner vide letter No. 709 dated 17.03.2020, whereby the petitioner was asked to deposit outstanding dues of Rs. 34.56 Lacs towards EDC, license fee. It was further asked to get renewed his colony license upto 30.05.2022, for which he was required to deposit License Renewal Fee of Rs. 8,26,500/-. However, owing to non deposit of these outstanding dues, vide memo No. 180 dated 18.01.2021 the petitioner was again issued the reminder for deposit of outstanding dues of statutory charges and complete other formalities for renewal of colony license but the petitioner has failed to get renewed his colony license and did not deposit the statutory charges.

Inferences of this Court.

19. The crux of the controversy, which has emerged in the instant writ petition, relates both to the making of an interpretation to the norms relating to the subject project/property being included within Zone – II, and, also as to whether the consequent thereto required evidence or material, as becomes adduced on record, thus does or does not make the subject property to become included in Zone – II.

20. Therefore initially, it is most pertinent to re-extract hereinafter the relevant norm, whereby, the subject property became declared to become fall in Zone – II. The said norm is as such re-extracted hereinafter.

Before declaring any area of Ropar falling in Potential Zone Low – II, two conditions are required to be fulfilled i.e.

2025:PHHC:026986-DB



- (i) *within municipal limits **and***
- (ii) *one K.M. on both sides of the portion of the following roads not covered under any potential zone :-*
 - a) *Batala Amritsar Road.*
 - b) *Kurali – Ropar – Nawanshahar – Phagwara Road.*

21. A reading of the supra makes it clear that for the site concerned falling within Zone – II, therebys, the site was required to be falling in Ropar, but with a further necessity of the subject property falling both within M.C. limits and also the subject property falling within 1 KM of both sides of the relevant Kurali Ropar Nawanshahr Phagwara road.

22. Though, in the wake of the word ‘and’ segregating, the initially set forth condition in the apposite norm, inasmuch as, the subject property falling within M.C. limits and the subsequent thereto envisaged therein requirement, that the subject property is also required to be falling within 1 KM of both sides of the road (supra), therebys, but naturally the word ‘and’, does therebys require that the respondents were to ensure that adequate and cogent material becomes adduced qua both the conditions becoming satisfied.

23. In the above regard, the Junior Engineer concerned, proceeded to make a report (Annexure P-2) manifesting that the subject property is located within 1 km of Kurali-Ropar-Nawanshahr-Phagwara road. Though the said report has not been challenged. However, there is no material placed on record suggestive, that at the time of the Junior

2025:PHHC:026986-DB



Engineer making a survey in respect of the relevant fact, that he associated the present petitioner. If so, the said report is stained with the same breaching the principles of *audi alteram partem* and thereby irrespective of no protest being made thereagainst at the instance of the present petitioner, the same is declared to be of no legal worth.

24. Now, since it has been stated above that even the other condition relating to the subject property falling within the MC limits of Ropar, but was also required to be satisfied. However, there is no material on record suggestive, that the said condition though was required to be conjunctively satisfied with other condition (*supra*), which however, as stated (*supra*) became also not adequately satisfied, thus on account of the principles of *audi alteram partem*, becoming breached, thereby, the demand as raised against the present petitioner appears to be completely fallible.

25. Nonetheless, in the larger interest of justice, since no opportunity has been assigned to the present petitioner, so as to enable the petitioner, to adduce material that the subject property, does not fall within Zone – II, but falls either within potential Zone Low – III or under Zone Low-IV. As such, after quashing the impugned orders, the *lis* is remanded to the competent authority, to after ensuring that an adequate opportunity is assigned to all concerned, besides especially for enabling the tenderings by all of the *supra* evidence suggestive, that the norms relating to the subject property respectively falling within potential Zone-II or potential Zone – III or IV, thus thereby becomes satisfied, to thereupon accordingly render a fresh speaking decision.

2025:PHHC:026986-DB



- 26. Disposed of accordingly.
- 27. The said be positively made within four weeks from today but after hearing all affected persons concerned.
- 28. A photocopy of this order be placed on the file of other connected case.

(SURESHWAR THAKUR)
JUDGE

25.02.2025	(VIKAS SURI)
kavneet singh	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No