

**CWP-36337-2025 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****161****CWP-36337-2025 (O&M)****Date of decision: 11.12.2025****Jaswinder Kaur**

....Petitioner

Vs.

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGERPresent: Mr. Gopal Rathi, Advocate
for the petitioner.

Mr. Navneet Singh, Addl. A.G. Punjab.

HARSH BUNGER J. (Oral)

Prayer in the instant writ petition filed under Articles 226 of the Constitution of India is for issuance of writ in the nature of mandamus, directing respondent No.2 - Executive Officer, Municipal Council, Ferozepur City, District Ferozepur, to take necessary action in compliance with the order dated 18.03.2024 (Annexure P-1) passed by the Ld. Sub-Divisional Magistrate, Ferozepur.

2. Briefly, the petitioner is stated to be a resident of Bedi Green Avenue, Phase-II, Ferozepur where a public park measuring about 160 ft. × 90 ft. was earmarked in the sanctioned layout plan (Annexure P-6). It is alleged that certain private persons have encroached upon the said park by raising illegal construction and are using it for private purposes such as parking. The petitioner sought information under the RTI Act, and as per reply dated 01.10.2018 (Annexure P-5), it was clarified that no commercial

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activity is permissible in the park area and that it is meant exclusively for public use.

2.1 Aggrieved by the said encroachments, the petitioner approached the learned Sub-Divisional Magistrate, Ferozepur by filing an application under Section 133 Cr.P.C. Upon consideration of the application, the learned SDM vide order dated 18.03.2024 (Annexure P-1) observed that the area in question falls within the jurisdiction of the Municipal Council, Ferozepur and accordingly directed that action, if any, be taken by the Municipal Council under the provisions of the Punjab Municipal Act, 1911.

2.2 The petitioner asserts that despite the aforesaid direction, the Municipal Council failed to take any action. It is averred that representations dated 18.03.2024 and 17.03.2025 (Annexure P-2 and Annexure P-3 respectively) followed by a legal notice dated 29.04.2025(Annexure P-4), were submitted, however, no effective steps were taken by respondent No.2.

3. In the aforementioned circumstances, the present writ petition has been filed by the petitioner for seeking relief(s) as noticed hereinabove.

4. Heard.

5. At this stage, it would be apposite to refer to the order dated 18.03.2024 (Annexure P-1) passed by the learned Sub-Divisional Magistrate, Ferozepur, which when translated to English, reads as under:

“18.03.2024

File was put up. Case was called out. No one has come present. The application was considered. The area mentioned in the application, falls within the jurisdiction of Municipal Council, Ferozepur. Therefore, the proceedings on this application are to be taken by Municipal Council, Ferozepur



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under the Punjab Municipal Act, 1911. The proceedings on this application before this Court are closed. A copy of this application be sent to the Executive Officer, Municipal Council, Ferozepur for carrying out proceedings under the aforesaid Act. Order pronounced. File be consigned to record room after due compliance...”

5.1 A perusal of the aforesaid order shows that the learned Sub-Divisional Magistrate has merely observed that the area falls within the jurisdiction of the Municipal Council and that action, if any, is to be taken under the Punjab Municipal Act, 1911. The order does not specify the provision under which such action is required to be taken nor does it adjudicate upon the existence or extent of the alleged encroachment and by whom.

6. In my considered view, this petition raises disputed questions of fact, which would require leading of evidence, which is not possible in present proceedings. Even the persons who are alleged to be in illegal possession have not been impleaded in this petition.

7. Accordingly, the present writ petition is dismissed; however, leaving it open to the petitioner to avail her appropriate legal remedies, as may be available to her, in accordance with law.

8. All the pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

11.12.2025
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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No