

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 4759 of 2010 (O&M)

Date of decision: 23.3.2012

Hira Lal Goyal and others

... Petitioners

versus

State of Punjab and others

... Respondents

CORAM: Hon'ble Mr.Justice Ranjan Gogoi, Chief Justice
Hon'ble Mr. Justice Mahesh Grover, Judge

...

Present: Mr.Sumeet Mahajan, Sr. Advocate,
with Mr.Amit Kohar, Advocate,
for the petitioners.
Mr.Alok Jain, Addl.A.G., Punjab.
Mr.Harsh Aggarwal, Advocate,
for respondents No.2 and 10.
Mr.A.R.Takkar, Advocate,
for respondent No.3.
Mr.Sukhbir Singh Mattewal, Advocate,
for respondents No.4 and 5.
Mr.Amit Rawal, Advocate,
for respondents No.16, 18 and 22.

...

RANJAN GOGOI, C.J. (ORAL)

CM No. 3809 of 2012

The application is allowed as prayed for.

CWP No. 4759 of 2010 (O&M)

This order of ours will dispose of CWP No. 4759 of 2010, which pertains to Building No.92, The Mall, Ludhiana (Building known as Surya Kiran Building).

By order dated 4.4.2011, this Court had directed that the operation of generator sets in the aforesaid building, which houses shops and commercial establishments, should be shut down and the option of working out viable alternative methods of a common source of captive

power should be explored.

Thereafter, CM No. 11004 of 2011 was filed on 5.8.2011 by respondents No.16, 18 and 22, seeking permission of the Court to make the generator sets, which have been installed, functional. According to the respondents, the aforesaid generator sets (five in number) conform to all requirements of environmental law and are a source of common captive power for the shops and establishments housed in the building, inasmuch as several shops, details of which have been mentioned in CM No. 11004 of 2011, are drawing power from the said generator sets. On this application, an order dated 31.1.2012 was passed by this Court seeking a status report from the Punjab Pollution Control Board with regard to the generator sets installed by respondents No.16, 18 and 22 and whether they conform to the norms laid down. It appears that pursuant to the said order of the Court, an affidavit dated 27.2.2012 was filed on behalf of the Punjab Pollution Control Board stating therein that an inspection of the building was carried out by the concerned officers of the Board even prior to the Court's order and three generator sets (82 KVA, 180 KVA and 120 KVA) which were found to be installed were put into operation and the noise level found on such monitoring was within the prescribed parameters, i.e., 75 db (A). Insofar as, the other two generator sets are concerned, the team of the Punjab Pollution Control Board had found the same to be running without any canopies and, therefore, the Municipal Corporation was asked to remove/seal the said generator sets.

Replication has been filed by the petitioners against the aforesaid status report of the Punjab Pollution Control Board, wherein it

has been stated that the area in question is a commercial-cum-residential area and, therefore, the parameters of noise level mentioned by the Pollution Control Board in the status report, [75 db (A)], being in respect of industrial areas, would not be the correct parameter in the present case. The petitioners have also raised an issue with regard to the place where the generator sets have been installed claiming that the same have the potential of causing obstructions in the free movement.

We have considered the cases projected by the rival parties. We find that three generator sets, which have been found to be substantially in order by the Punjab Pollution Control Board conform to the spirit of our order dated 4.4.2011, which stipulates the necessity of a common source of captive power. The Punjab Pollution Control Board has found the noise level emanating from the generator sets to be below 75 db(A). Though the learned counsel for the petitioners has asserted that the said sound level would not apply to a residential-cum-commercial area, our attention has been drawn to the amendment carried out in the relevant notification, which prescribes the maximum optimum sound level as 75 db(A) for new diesel generator sets upto 1000 KVA capacity. Insofar as the locations of the generator sets are concerned whether the same would cause any obstruction or not is an aspect that the Municipal Corporation should determine and not the Court. We have also noticed that in the report of the Punjab Pollution Control Board, the three generator sets in question have been found to be suffering from a slight lacuna, inasmuch as, the chimneys of the generator sets are not of the required height. The said generator sets, naturally, can be made operational only after the aforesaid defect is rectified. We, therefore,

direct the Punjab Pollution Control Board to grant permission for operation of the generator sets after the aforesaid defect is rectified and after all other necessary requirements of law are complied with and only after the Board is fully satisfied in this regard. We also make it clear that all necessary permissions/clearances from the several State authorities, including, the Punjab State Power Corporation Limited, as may be required shall be obtained by the respondents before the generator sets are made operational. It will not be necessary to prescribe any time-schedule in this regard, inasmuch as, it will be open for the parties to complete the necessary action at the earliest.

The CWP stands disposed of in terms of the above directions.

(RANJAN GOGOI)
CHIEF JUSTICE

23.3.2012
pk

(MAHERSH GROVER)
JUDGE