

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

CWP No.14176 of 1997(O&M)

Date of decision:22.9.2014

M/s Shivalik Pulps

....Petitioner

VERSUS

The Director, Town and Country Planning Department and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sudhir Mittal, Advocate, for the petitioner.

Ms. Shubhra Singh, DAG, Haryana.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to schedule of rates of the conversion charges prescribed in a meeting of the Council of Ministers dated 19.08.1997 (Annexure P-8).

The petitioner applied for permission to set up manufacturing unit in the year 1995. The permission to set up industry was declined in view of the provisions of the Punjab New Capital (Periphery) Control Act, 1952 (for short 'the Act'). The petitioner communicated that petitioner has set up an agro-based unit and the applicability of the Act to the area in question was not known whereas the petitioner has invested huge sum of money to set up a plant, therefore, a lenient view should be taken. The explanation of the petitioner was accepted but was advised to demolish unauthorized construction falling within the set back lines. The petitioner was, thereafter, called upon to deposit conversion charges, composition charges but after one year, composition charges at the rate of Rs.5/- per

square feet were claimed for unauthorized construction of 7074 square feet. It is the said conversion charges which are subject matter of challenge in the present writ petition.

A similar issued was raised in CWP No.5036 of 1997 titled M/s Trishul Industries v. The State of Haryana and another, decided on 26.05.2006. The writ petition was dismissed, inter alia, observing as under:-

“.....Thus, there is merit in the submission of the learned Advocate General that conversion charges are neither tax nor fee. These charges are levied by the State as a balancing factor for losing vital agricultural resources. The money recovered as conversion charges, will ultimately be used for the development projects undertaken by the Government. The change of land user is not granted to the petitioners as a matter of right. It has been granted in relaxation of the zoning regulations. In case of non-levy or notional levy of conversion charges, the very purpose of declaring any area as a controlled area, would be defeated. In our opinion, since the conversion charges are neither tax nor fee, the judgments cited by Mr. Sarin are not relevant.

Even otherwise, the respondents have given valid justification in the written statement for imposition of the conversion charges. Mr. Hooda, in opinion, has rightly pointed out that once a defined area is declared as a “Controlled Area”, the development therein has to be strictly regulated to prevent haphazard growth. Change of land user in Controlled Area is not a right vested in the land owner. At best, it is a concession. The owner of the land cannot claim the right to change the user of agricultural land to non-agricultural either as a Fundamental Right or as a Statutory Right. The change of land user is permitted only to ensure Controlled or regulated development within the area...”

In view of the decision in the aforesaid writ petition, the present writ petition is dismissed for the same reasons as recorded therein.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 22, 2014
‘D. Gulati’

(KULDIP SINGH)
JUDGE