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**(2012) 01 P&H CK 0195**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 11463 of 2009**

Anita Kataria

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 16-01-2012

**Acts Referred:**

Haryana Urban Development (Disposal of Land and Buildings) Regulations, 1978 —  
Regulation 16, 16A, 16B, 2  
Haryana Urban Development Authority Act, 1977 — Section 15

**Citation :** (2013) 2 RCR(Civil) 128

**Hon'ble Judges :** Hemant Gupta, J;A.N. Jindal, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## Judgement

Hemant Gupta, J.—Challenge in the present writ petition is to an order dated 07.07.2009 passed by the Estate Officer, HUDA, Panchkula rejecting the representation of the petitioner to run "Beauty & Skin Consultancy Services" in part of her residential house i.e. House No.675, Sector-2, Panchkula.

2. The petitioner has invoked the jurisdiction of this court with the averments that she started the business of "Beauty and Skin Consultancy Services" from her residential house in order to get some extra income. The petitioner started such profession after being trained from different Beauty Saloons in India after paying heavy sum of fee. Some of the certificates granted to the petitioner have been attached with the writ petition. The petitioner made a representation on 03.11.2008 for permission to use part of her residential house for "non-nuisance professional activity" i.e. for providing Beauty and Skin Consultancy Services to the ladies. The said representation was not decided, which led to filing of CWP No.20451 of 2008. On 31.01.2009, while disposing of the said writ petition, this Court directed the respondent-authorities to decide the petitioner's representation by passing a speaking order. It was in pursuance of such direction, the Estate Officer, HUDA, Panchkula has passed the impugned order

rejecting the representation of the petitioner for allowing the petitioner to use the part of her residential building for non-nuisance professional activity i.e. for providing Beauty and Skin Consultancy Services. The reasons for rejecting such permission are as under:

...It is pertinent to mention here that as per direction of Hon"ble High Court no commercial activity is being allowed from resident premises, only the Non-nuisance Professional Consultancy Services viz. Doctors, Lawyers etc. are being allowed to provide their services subject to obtaining of necessary permission/licenses etc.

The case was thus got examined from the Urban Branch H.Q. and vide memo No.A-MK-UB-1-2009/23085, it has been conveyed that "the policy of allowing Non-nuisance Professional Consultancy Services from residential premises, notified on 12th January, 1999 allows Doctors to carry out Consultancy Services from their residential premises and a qualified Doctor in the field of Skin Care can seek permission for the same within the stipulation of the policy. However, the activity of rendering Beauty and Skin Consultancy Services by persons other than Qualified Doctors in the field is not covered under the policy. Therefore, the request of Smt. Anita Kataria may not be accepted.

3. It is the said order, which is subject matter of challenge in the present writ petition.

4. Section 15 of the Haryana Urban Development Authority Act, 1977 (for short "the Act") empowers the Haryana Urban Development Authority (for short "the HUDA") to sell, lease or otherwise dispose of the building or plot in the manner, as may be prescribed. In terms of the provisions of the Act, Haryana Urban Development (Disposal of Land & Building) Regulations, 1978 (for short "the Regulations") have been framed. On 02.02.1999, proviso to Regulation 16, 16A and 16B and also Clause (bb) in Regulation 2 have been inserted, defining "Non-nuisance Professional Consultancy". The relevant provisions from the Regulations read as under:

16. Use of land/building:-The transferee or lessee shall not use the land/building for a purpose other than that for which it has been disposed of to him;

The permission will be given initially for a period of 5 years on payment of prescribed fee. The fee shall be recovered at 10% with application, 40% at the time of grant of permission and balance 50% after one year from the date of permission failing which the permission shall stand cancelled. However, 10% rebate shall be given if payment is made in lump sum. The permission shall be renewed after a period of five years on the payment of renewal fee, equal to 10% of total fee which will be recovered in lump sum at the time of renewal.

16-A. Application to be made for rendering non-nuisance professional consultancy services - A person seeking permission from Estate Officer, Haryana Urban Development Authority concerned for rendering non-nuisance professional

consultancy services in land/building disposed of for residential purposes, should apply in Form "H" to the Estate Officer, Haryana Urban Development Authority concerned.

16-B. Permission for rendering non-nuisance professional services -

The Estate Officer, Haryana Urban Development Authority concerned on considering the application within a period of 30 days subject to fulfillment of requirements may grant permission to the applicant in Form "I".

2. Definitions: xxx xxx xxx (bb)

"Non-nuisance professional consultancy" means an activity carried on by an individual by his personal skill and intelligence and includes :-

- (a) Doctors (without Nursing Home);
- (b) Lawyers;
- (c) Tax Consultants;
- (d) Architects (without studio);
- (e) Contractor Consultants;
- (f) Chartered Accountant/Company Secretaries;
- (g) Property Consultants;
- (h) Tourist Guides;

5. The claim of the petitioner for permission to use the part of her residential building for "Non-nuisance Professional Consultancy" has been rejected on the ground that a qualified Doctor in the field of skin care can be granted permission of the same, but activity of rendering Beauty and Skin Consultancy Services other than the qualified Doctor is not covered under the Policy.

6. We find that the stand of the Estate Officer is not tenable in law. The definition of "Non-nuisance Professional Consultancy" is defined to mean an activity carried on by an individual by his personal skill and intelligence and includes Doctors, Lawyers, Tax Consultants, Architects, Contractor Consultants, Chartered Accountant/Company Secretaries, Property Consultants & Tourist Guides.

7. Firstly, the definition of "Non-nuisance Professional Consultancy" in Clause (bb) of Regulation 2, as reproduced above, is not exhaustive. It is inclusive definition. Secondly, an activity, which is carried on by an individual by his personal skill and intelligence is what is sought to be included within the definition of "Non-nuisance Professional Consultancy". Keeping in view the said intent of the definition, the work of skin care and beautician for the ladies is dependent upon personal skill of the Consultant/service provider. Therefore, such Beauty and Skin Consultancy Services falls within the ambit of Regulations. Thirdly, the definition does not restrict that the qualified Doctor alone is

competent to use residential building for non-nuisance professional activity. The instances mentioned in the definition include Property Consultants and Tourist Guides, for which there is no qualification fixed or contemplated by any law. Therefore, the reasoning given by the learned Estate Officer that only qualified Doctor is permitted to use the part of the residential building for skin care treatment is untenable. Such reasoning is not supported by the terms of the Regulations.

8. The work of providing Beauty and Skin Consultancy Services is an amenity for the ladies. Such work is not a resource oriented nor requires large space or heavy equipments. The ladies in the neighbourhood would be much more comfortable to get such beauty care treatment from a house of a consultant rather than from a commercial building. Such work does not violate either the express language of Clause (bb) in Regulation 2 or the intention thereof. Consequently, we find that the order passed by the Estate Officer, Panchkula is patently illegal and cannot be sustained in law.

9. In view of the above, the present writ petition is allowed. The respondents are directed to permit the petitioner to use the part of her residential building for non-nuisance professional activity i.e. for providing Beauty and Skin Consultancy Services.