

(2012) 01 P&H CK 0259
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 6906 of 2007 (O and M)

Ashutosh Vermani and others

APPELLANT

Vs

Chandigarh Administration and others

RESPONDENT

Date of Decision : 25-01-2012

Acts Referred:

Punjab Capital (Development and Regulation) Buildings Rules, 1952 — Rule 2(56)

Citation : (2012) 01 P&H CK 0259

Hon'ble Judges : Ranjan Gogoi, C.J;Mahesh Grover, J

Bench : Division Bench

Judgement

Mahesh Grover, J.—Through this public interest petition, the petitioners who are the residents of Sector 15-B, Chandigarh, seek to highlight their grievance regarding few make-shift structures which have come up opposite their houses and which according to them are eye sores and are in complete violation of the zoning plan of the area.

2. The structures in question were prompted by the activity of their intended occupants who are book sellers dealing with pre-used books and operating from the areas meant for pedestrians opposite University Gate and in continuation with the main market of Sector 15, Chandigarh which activity resulted in a traffic hazard when people stopped to buy books from them.

3. With the laudable objective of solving this problem, the site in question was chosen by the Administration to provide temporary structures so as to rehabilitate these book sellers and also to avoid a traffic hazard created by their activities in the previous site.

4. The allegations made by the petitioners regarding violation of the zoning plan of the area do not really emerge affirmatively in view of what has been stated by the respondents in their reply.

5. It would be appropriate to reproduce the exact stand as contained in para-3 of the reply filed by Smt.Sunita Monga, Chief Architect, U.T. Chandigarh:-

3. The construction work of platforms will be done by the Chief Engineer, U.T.Chandigarh on receipt of approved design of platforms from the Chief Architect, U.T.Chandigarh (Action by C.E.U.T.)." The copy of the minutes of the said meeting dated 7.9.2006 are appended herewith as Annexure R-1. The site in question as per the zoning plan dated 31.5.1954 of Sector 15-A was shown as public space. The land use of the area as per this zoning plan was landscape features, educational, public and community buildings and public amenities. Therefore while selecting the site for shifting of above said booksellers, the Deptt. of Urban Planning, Chandigarh Administration had sent a proposal for change of land use from the specified use to commercial use vide U.O. No.Arch-06/400 dated 1.9.06 and letter dated 27.11.06. Copy of the same is attached herewith as Annexure R-2. The Chief Administrator, Chandigarh Administration vide their office memo No.21/1/350-UTFI(3)-07/2826 dated 18.5.07 has granted approval for change of land use from landscape features, education public and buildings and public amenities to site for resettlement of booksellers platforms in respect of the sites in Sector 15-A, Chandigarh, where platforms for booksellers were to be constructed. A copy of the said letter dated 18.5.07 is annexed herewith Annexure R-3. A copy of the zoning plan of Sector 15-A, as amended till 18.5.07 is appended herewith as an Annexure R-4. The master plan of the city only shows the layout plan of different sectors. It is the zoning plan as defined under Building Rule 2(LVI) of the Capital of Punjab (Development and Regulation) Rules, 1952 which provides the land uses and layout plan of each sector. It is pertinent to mention that each sector of Chandigarh has its own layout plan/zoning plan, which is subdivided into four sub Sectors - A, B, C, D. Each sub-sector has its own zoning plan indicating the different land uses. The zoning plan of Sector 15-A bearing Drg.No.24 Job No. 11 dated 31.5.54 has been amended as per approval granted by the Chief Administrator on 18.5.07. (Appended herewith as Annexure R-4). Thus it is absolutely clear that no provision of law or zoning plan of Layout Plan of sector has been violated in constructing the said platforms.

6. It is evident therefore, that the site in the zoning plan originally was shown as a public space and meant for use of "land scape features, educational, public and community buildings and public amenities". With a conscious decision the change of land use was permitted by the Chief Administrator, Chandigarh to mean a site for "re-settlement of book sellers" platforms, in respect of the sites in Sector 15-A".

7. Learned counsel for the petitioners would have us to believe that such change of land use could not be resorted to and the exercise of such a power is evidently unsustainable considering the planned status of the City of Chandigarh.

8. On due consideration of the matter, we are of the opinion that the Administration by way of abundant caution had granted the change of land use to convert the purpose of utilization of site for re-settlement of the book sellers" platforms in respect of sites in Sector 15B, Chandigarh as even the original

purpose enshrined in the zoning plan gave an ample elbow room to them to carve out such sites keeping in view the fact that the site was originally meant for "educational purposes" as well and in our opinion, the sale of books by creating infrastructure for them would certainly be a step in this direction more so, when the area is surrounded by colleges and the University.

9. For the aforesaid reasons, we do not find that the respondent/ Administration has committed any error in granting the sites for the re-settlement of book sellers.

10. The Public Interest Litigation is thus ordered to be closed.