

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Civil Writ Petition No. 10623/2016

Mumtaz Mohd.

----Petitioner

Versus

1. District Collector Pali, dist. Pali
2. Tehsildar, Marwar Junction, Dist. Pali.
3. Regional Officer, Rajasthan Pollution Control Board, Pali.
4. Hira Lal, Khandpa, ward no. 17, Member Panchayat Samiti,  
Marwar Junction Pali.

----Respondents

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For Petitioner(s)	: Mr. Mukesh Rajpurohit, ASG
For Respondent(s)	: Mr. L.K. Purohit Mr. Ashok Patel

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**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**  
**Order**

**09/05/2022**

The matter comes up on an application (Inward No. 02/22) for early hearing.

It is noted that the case is listed in the 'Orders' category as an application (Inward No. 02/22) of some other writ petition has wrongly been tagged with this file and the next date in the said petition is 28.09.2022.

The office is directed to tag the said application appropriately in the correct file.

With the consent of the learned counsel for the parties, the matter is being heard and decided finally today itself.

The present writ petition has been filed against the notice dated 09.09.2016 issued by respondent No. 2-Tehsildar, whereby, the petitioner has been directed to shift his poultry farm.

Learned counsel for the petitioner submits that the petitioner established a poultry farm in Khasra No. 566, Village Musaliya, Tehsil Marwar Junction, District Pali. He further submits that he is running the poultry farm after taking a "No Objection Certificate" from the Gram Panchayat, Musaliya vide their resolution dated 20.09.1998 (Annex. 3). Learned counsel further submits that he has complied with all the eligibility and requisite qualifications for running the poultry farm, even then the respondent No.2-Tehsildar issued a notice for shifting of the poultry farm without extending a reasonable opportunity of hearing to the petitioner. He, therefore, prays that the writ petition may kindly be allowed and the impugned notice dated 09.09.2016 may be quashed and set aside.

Per contra, learned counsel for the respondents submits that the petitioner is running a poultry farm in contravention of the provisions of Water (Prevention and Control of Pollution) Act, 1974. Learned counsel further submits that an inspection was conducted at the poultry farm of the petitioner and certain deficiencies were pointed out but the said deficiencies were not removed. He further submits that the notice issued by the Tehsildar for shifting of the poultry farm from the existing place was just and proper.

I have considered the submissions made at the Bar and gone through the notice dated 09.09.2016 as well as other relevant records of the case.

The petitioner is running the poultry farm in Village Musaliya since 1998 and for the purpose a "No Objection Certificate" was issued by the Gram Panchayat, Musaliya in 1998 itself. Although, it is mentioned in the notice dated 09.09.2016 issued by the respondent No. 2 that an inspection was conducted by the

Rajasthan Pollution Control Board and certain deficiencies were pointed out. It is noted that although the heading of notice is stated on Annex. 5 dated 09.09.2016 but a direction has been issued to the petitioner to shift his poultry farm to some other place.

A bare perusal of the Annex. 5 dated 09.09.2016 shows that the petitioner has not been extended any opportunity of hearing before passing the notice impugned. This Court feels that since the notice impugned 09.09.2016 having evil consequences, an opportunity of hearing is required to be given to the petitioner.

In the facts and circumstances of the case, the present writ petition is disposed of with a direction to the petitioner to appear before respondent No. 2-Tehsildar within a period of ten days from today and submit a detailed representation supporting his case. The respondent No. 2 shall consider the same and decide the representation of the petitioner after giving a reasonable opportunity of hearing to him. Needless to say that the respondent No. 2 shall decide the representation by reasoned and speaking order.

The interim order granted by this Court on 17.09.2016 shall continue till the respondent No. 2 decide the representation of the petitioner.

**(VINIT KUMAR MATHUR),J**