

**RSA-1303-2026 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****153****RSA-1303-2026 (O&M)****Date of decision: 13.07.2026****State of Haryana through Collector and another**

....Appellants

Vs.

Bhajan Lal

....Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER**Present:** Mr. Rahul Gupta, Assistant Advocate General, Haryana
for the appellants.

HARSH BUNGER J. (Oral)**CM-4683-C-2026:**

Present application is filed seeking condonation of delay of 103 days in filing the regular second appeal i.e. RSA-1303-2026.

For the reasons mentioned in the application, delay of 103 days in filing the regular second appeal i.e. RSA-1303-2026 is condoned.

Application is accordingly disposed of.

RSA-1303-2026 (O&M):

1. For convenience, the parties herein are being addressed as per their status in the original suit.
2. This is the defendants' regular second appeal challenging the judgment and decree dated 21.04.2022 passed by learned Additional Civil Judge (Senior Division), Sirsa, whereby the suit filed by the respondent/plaintiff (Bhajan Lal) seeking declaration that the letter bearing

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No.3480 dated 07.10.2017 issued by District Food and Supplies Controller, Sirsa, stopping the ration supply to the depot of respondent/plaintiff is null and void; had been decreed.

2.1 A further challenge has been made to the judgment and decree dated 19.08.2025 passed by learned Additional District Judge, Sirsa, where an appeal filed by the appellants/defendants against the learned Trial Court judgment and decree dated 21.04.2022 has been dismissed.

3. Briefly, the respondent/plaintiff (Bhajan Lal) filed a suit for declaration that a letter dated 07.10.2017 issued by District Food and Supply Controller, Sirsa, stopping the ration supply to the depot of the plaintiff be declared null and void, on the plea that the plaintiff had been running his ration depot in village Vaidwala, District Sirsa, for the last many years as per law and without complaint.

3.1 It was pleaded that vide letter dated 07.10.2017, the supply of ration depot of the plaintiff has been stopped on the allegation that the plaintiff had lifted excess ration, which according to plaintiff was not possible and the said allegation was denied. In the suit, plaintiff prayed that the aforesaid letter dated 07.10.2017 is liable to be set aside and the plaintiff is entitled to get the supply of the ration from the defendants.

3.2 Upon issuance of notice in the suit, the present appellants/defendants appeared and filed their joint written statement, wherein apart from raising certain preliminary objections, it was stated that on a complaint dated 26.08.2016 made by Sh. Bobby son of Sh. Mohan Lal to the Food Minister, an enquiry was assigned to Sh. K.K. Bishnoi, Deputy

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Director, who submitted his report dated 20.09.2017 regarding distribution of ration for the period of January, 2016 up to December, 2016 and as per his report, the competent authority issued directions vide letter dated 04.10.2017 to register criminal cases against 70 persons named in the report as well as to take action against them under PDS Control Order 2009.

3.3 It was averred that in compliance of the aforesaid direction issued by the Directorate of Food Civil Supplies and Consumer Affairs, the District Food and Supplies Controller, Sirsa issued a letter No.3691 dated 12.10.2017 to the plaintiff and ration supply to the plaintiff depot was ordered to be stopped on account of excess lifting of goods and misappropriation of the same as well as for the violation of provision of PDS Control Order, 2009.

3.4 The defendants took a stand that the letter dated 07.10.2017 was legal and after the suspension of supply of the goods to the plaintiff's depot, the remaining stock has been ordered to be transferred to the fresh depot. On merit; the averments made by the plaintiff in its plaint were denied and prayer of dismissal of the suit was made.

4. From the pleading of the parties, following issues were framed by the learned Trial Court:-

- “1. Whether plaintiff is entitled for decree of declaration as prayed for? OPP*
- 2. Whether plaintiff is entitled for consequential relief of mandatory injunction as prayed for? OPP*
- 3. Whether suit of plaintiff is not maintainable in the present form? OPD*

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4. *Whether plaintiff has no cause of action and locus-standi to file the present suit? OPD*
5. *Whether plaintiff has concealed the true and material facts and not come to the court with clean hands? OPD*
6. *Whether plaintiff is estopped by his own act and conduct from filing the present suit? OPD*
7. *Whether the Civil Court has no jurisdiction to entertain and try the present suit? OPD*
8. *Whether the suit of the plaintiff is false and frivolous? OPD*
9. *Relief.”*

5. The parties led their respective evidence (oral as well as documentary) on the aforesaid issues.

6 The learned Trial Court upon consideration of the matter, returned the following findings under issue Nos.1 and 2:-

“15. In the suit in hand, the allotment of ration depot to the plaintiff by the department of the defendants is an admitted fact. The plaintiff has challenged impugned notice Ex.P3 dated 7.10.2017, issued by the defendants wherein it has been alleged that the plaintiff has committed misappropriation by lifting excessive ration/goods. It is pertinent to mention here that the defendants have taken the plea of one enquiry report dated 20.09.2017, being submitted by Shri K.K. Bishnoi, Inquiry Officer to be basis for issuing of impugned notice to the plaintiff, however the defendants in support of their said contention had never proved on record the said enquiry report in original. Only a copy of enquiry report has been placed on record and perusal of the said enquiry report shows that the said report was given on the basis of enquiry made for the period with effect from January, 2015 to December, 2015 and January 2016 to December 2016 and the allegations against the plaintiff are not specifically mentioned in the copy of

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enquiry report as placed on record. The plaintiff on the other hand has duly placed on record the information given regarding the lifting of material by him for the period i.e. January, 2015 to December, 2015 and January 2016 to December 2016 as Ex.P2 and Ex.P1, issued under R.T.I. and the said reports show that lifting of goods(wheat) by the plaintiff was actually less than the requirement of the ration depot run by him. Further, from the cross-examination of the DW1, it has been established that the plaintiff was never called by the Inquiry Officer K.K. Bishnoi and neither there was any opportunity of hearing given to the plaintiff either by the Inquiry Officer K.K. Bishnoi before giving his enquiry report. The defendants have also failed to produce any evidence that they have provided any opportunity of hearing to the plaintiff before issuing the impugned notice Ex.P3. Therefore, it is established that before issuance of notice in question, the principles of natural justice were never adhered to. Moreover, the defendants have failed to prove on record the inquiry report as per law of evidence and evidence led on behalf of plaintiff by way of R.T.I. information completely shatters the ground taken by the defendants for sending impugned notice to the plaintiff. Also, mere registration of FIR against the plaintiff and filing of challan do not prove the guilt of the plaintiff, which has to be proved by adhering to the principles of criminal law and the defendants have even failed to examine the SHO concerned as well as the investigating officer so as to prove the said final report/challan and the reports of SIT and the plaintiff did not get the opportunity to cross-examine said witnesses and therefore, mere exhibiting the documents, does not dispense with the proof of the same and defendants have failed to prove on record the said reports as per law of evidence.

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16. *The impugned notice Ex.P3 is based on inquiry report of Inquiry Officer K.K Bishnoi only and the defendants have also failed to show on record if any other action has been taken by the department, upon the depot holders and the officials, so named in the final report/challan, subsequent to the filing of said reports. Nothing on the file if the officials have been suspended, who have found to be involved in alleged misappropriation and also there is nothing on file if before taking the penal action of registration of FIR, the plaintiff was given any opportunity of being heard as per Order dated 13.07.2009, as relied upon by the defendants themselves.*

17. *In the present case, the court has to only look into the validity of the impugned notice Ex.P3, issued on 7.10.2017 by the defendants to the plaintiff regarding stoppage of supply of ration on the grounds mentioned therein and it is proved on record that the impugned notice had been issued by the defendants' department arbitrarily without any valid reason and ground and in violation of principles of natural justice and therefore, said notice shall not be implemented against the plaintiff and thus the plaintiff can well be said to be entitled to restoration of his supply.”*

6.1 As a sequel to the findings returned by the learned Trial Court on various issues, following relief was granted to the respondent/plaintiff:-

*“22. As a sequel to my findings under the aforesaid issues, the suit of the plaintiff is hereby **decreed without costs** against the defendants and the impugned notice dated 7.10.2017 issued by the defendant no.2 is declared as null and void and the defendants are directed to supply the ration to the depot of the plaintiff. The department is, however, at liberty to conduct fresh inquiry after joining the plaintiff and after affording him opportunity of being heard and it is also relevant to mention*

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here that this order shall otherwise has no effect on the merits of the criminal proceedings pending against the plaintiff before the concerned court. Decree Sheet be prepared accordingly. File be consigned to record room after due compliance.”

7. Feeling dissatisfied, the present appellants preferred an appeal before the learned Additional District Judge, Sirsa, which has been dismissed vide judgment and decree dated 19.08.2025.

8. In view of the aforementioned circumstances, present regular second appeal has been filed by the appellants/defendants.

9. I have heard the learned State counsel and perused the paperbook with his able assistance.

10. In the present case, the respondent/plaintiff had filed the suit for declaration in respect of letter dated 07.10.2017 issued by District Food and Supplies Controller, Sirsa whereupon the ration supply to the depot of the plaintiff had been stopped on the allegation of excess lifting of goods. The appellants/defendants had opposed the claim of the plaintiff, *inter alia*, on the plea that on a complaint filed by Sh. Bobby, an enquiry was conducted by the Sh. K.K. Bishnoi, Deputy Director, who in his report dated 20.09.2017 named 70 persons and action was recommended under the PDS Control Order, 2009 as well as registration of criminal case against them.

11. The learned Trial Court upon appreciation of facts, pleadings as well as evidence available on record came to the conclusion that the Inquiry Officer, Sh. K.K. Bishnoi, before giving his report, did not call the plaintiff nor any opportunity of hearing was afforded to him. The learned Trial Court found that even the defendants have not produced any evidence to show that

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any opportunity of hearing was afforded to the plaintiff before issuing the impugned notice (Ex. P3), accordingly, it was held that before issuance of notice/letter in question, principles of natural justice were not adhered to.

12. That apart, the learned Trial Court further observed that even the enquiry report has not been proved on record. The learned Trial Court further went on to observe that the impugned notice (Ex. P3) was based upon the enquiry report of Sh. K.K. Bishnoi, Deputy Director, however the defendants have failed to show on record that any further action has been taken by the Department upon the depot holders and the officials, who were named in the final report/challan. It has also not been shown that whether the officials have been suspended or not, who were found to be involved in the alleged mis-appropriation.

13. The findings returned by the learned Trial Court has been further affirmed by the learned First Appellate Court.

14. Learned State counsel has failed to dislodge the findings/observations recorded by the Courts below by referring to any material whatsoever. It has not been shown as to how the findings returned by the learned Trial Court as well as the learned Appellate Court are either illegal, perverse or based upon misreading or mis-appreciation of evidence,

15. Even otherwise, while decreeing the suit of the plaintiff by declaring impugned notice dated 07.10.2017 as null and void, the Department has already been granted an opportunity to conduct a fresh enquiry after joining the plaintiff and after affording an opportunity of being heard to him. The learned Trial Court has further clarified that this judgment



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dated 21.04.2022 shall have no effect on the merits of the criminal proceedings pending against the plaintiff before the concerned Court.

16. In my considered view, findings returned by the learned Courts below are based upon proper appreciation of facts as well as evidence available on record, which do not call for any interference by this Court. No question of law, much less substantial question of law arises for adjudication in this regular second appeal. The present regular second appeal is devoid of any merit and the same is accordingly ***dismissed***.

17. All the pending application(s), if any, shall also stand closed.

13.07.2026
Ankit

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No