

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

CWP-14178-2015

Decided on : 06.08.2015

Gram Panchayat Manauli Surat

.... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
 HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: **Mr.Hardip Singh, Advocate, for the petitioner.**

Mr.P.S.Bajwa, Addl.A.G., Punjab, for respondents No.1 to 3.

Mr.N.P.S.Mann, Advocate, for respondents No.4 to 8.

Mr.Gurcharan Singh, Advocate, for respondent No.9.

RAJIVE BHALLA, J. (ORAL)

Prayer in this petition, filed by the Gram Panchayat of Village Manauli Surat, Block & Tehsil Dera Bassi, District SAS Nagar, is for issuance of a writ of certiorari, quashing order dated 13.05.2015 (Annexure P-4), whereby the Joint Development Commissioner (IRD), Punjab, has condoned delay of 19 years 02 months and 06 days in the appeal, filed by respondents No.4 to 8.

Counsel for the petitioner submits that a perusal of the impugned order reveals that no reasons have been assigned for condoning the delay and even otherwise without giving the Gram Panchayat an opportunity to file a reply. The impugned order is, therefore, a nullity and may be set aside.

Counsel for contesting respondents No.4 to 8 submits that

the Gram Panchayat had been appearing for two years but did not chose to file a reply to the application for condonation of delay. The order dated 03.05.2015 must, therefore, be construed in the context of the Gram Panchayat's failure to file a reply.

Counsel for proforma respondent No.9 supports the arguments advanced by counsel for the Gram Panchayat.

We have heard counsel for the parties and perused the impugned order.

The order condoning delay, reads as follows: -

“The application for delay is accepted on the basis of grounds given by appellant. The appeal be fixed for hearing on merits on 27.5.2015.”

A perusal of the impugned order reveals that it is devoid of any process of reasoning much less any reasons that may be founded in fact or in law. Admittedly, the appeal was filed after a delay of 19 years 02 months and 06 days and, therefore, required the Joint Development Commissioner (IRD), Punjab, even if the Gram Panchayat did not file a reply, to furnish reasons for condoning this inordinate delay. The jurisdiction of an appellate authority to take cognizance of an appeal, commences only after delay in filing an appeal is condoned and, therefore, the necessity of passing a reasoned order, cannot but be over-emphasised.

Consequently, the writ petition is allowed, order dated 13.05.2015 (Annexure P-4), is set aside and the Joint Development

Commissioner (IRD), Punjab, is directed to decide the application for condonation of delay afresh and in accordance with law after granting both parties adequate opportunity to file additional affidavits/responses.

Parties are directed to appear before the Joint Development Commissioner (IRD), Punjab, on 13.08.2015. The application for condonation of delay and the appeal shall be decided within three months of the aforesaid date.

[RAJIVE BHALLA]
JUDGE

06.08.2015
shamsher

[AMOL RATTAN SINGH]
JUDGE