

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

CWP No.24591 of 2014 (O&M)
Date of decision: 04.08.2015

Master Deen

... Petitioner

Versus

F.C.(A) Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. G.N.Malik, Advocate
for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Jitendra Chauhan, J. (Oral)

The petitioner approached this Court with identical prayer made in the earlier petition i.e. CWP No.19064 of 2011 decided on 25.04.2013 to quash the impugned order dated 24.07.2014, (Annexure P-10) passed by Financial Commissioner whereby the revision petition filed by the petitioner was dismissed and order dated 11.03.2010 (Annexure P-7) passed by the Commissioner, Jalandhar Division, Jalandhar (respondent No.2) whereby the order passed by the Collector, Pathankot and Assistant Collector, Grade-I, Pathankot were set aside and the matter was remanded back for a fresh decision despite the fact that Kirpal Singh, the father of respondent Nos.3 and 4 had no locus standi to move an appeal as the partition proceedings had already been finalised and Sanad Taksim stood issued and the possession had also been delivered to the petitioner.

The petitioner had approached this Court by filing CWP No.19064 of 2011 against the orders of respondent Nos.1 & 2 challenging that the powers of Financial Commissioner to entertain a petition against the impugned orders had been withdrawn by the State

through notification dated 13.04.2011.

During the pendency of the above said writ petition, the powers of respondent No.1 to entertain the petitions against the order passed by respondent No.2 were restored by the State vide notification dated 28.01.2013. Accordingly, the petition was withdrawn with liberty to approach the learned Financial Commissioner.

Learned F.C. without going into the merits of the case dismissed the revision petition preferred by the petitioner in limine on account of delay. It is submitted that the petitioner had been pursuing the matter by filing the writ petition in this Court for the redressal of his grouse and after the State restored the powers of the Financial Commissioner to entertain the petition against the orders passed by respondents No.2 & 7 in a bona fide manner, the writ petition was withdrawn.

The petitioner has not gained anything by withdrawing the said petition and the withdrawal of the petition was not aimed at analysing the legal right available to the petitioner as per law.

Keeping in view the fact that at the relevant time i.e. when the petitioner approached this Court by filing first writ petition, the powers of the Financial Commissioner to entertain revision petition against the orders passed by respondent No.2 had been withdrawn, which in the interregnum period were restored by the State vide notification dated 28.01.2013. It is to be noticed that the said writ petition was filed on 04.10.2011 and was withdrawn on 25.04.2013. There was no mala fide on the part of the petitioner. The petitioner has not been benefitted in any manner by withdrawing the petition. The petitioner had rightly availed the opportunity by filing petition

before this Court as the learned F.C. had no powers to entertain the petitions in question and dismissing the petition solely as the ground of delay in the afore-mentioned facts and circumstances amounts to denial of the right available to the petitioner in law. Such an approach cannot be approved and allowed to prevail.

Accordingly, order dated 24.07.2014 (Annexure P-10) is set aside. The petitioner is granted at liberty to file a fresh petition before learned F.C. or to revive the petition filed after the withdrawal of the writ petition, within a period of four weeks from the date of receipt of the certified copy of this order.

In case, the petitioner approaches the learned Financial Commissioner within the stipulated period, respondent No.1 shall not raise the issue of delay and decide the same on its merits.

The writ petition stands disposed of.

August 04, 2015
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(Jitendra Chauhan)
Judge