

CWP No.11308 of 2012

[1]

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

**CWP No.11308 of 2012
Date of decision:12.08.2016**

Surender Singh and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Akshay Bhan, Senior Advocate, with
Mr. Santosh Sharma, Advocate, for the petitioners.

Mr. P.P.Chahar, DAG, Haryana.

Mr. Mukesh Kumar Verma, Advocate,
for respondent No.3.

Rakesh Kumar Jain, J.

The petitioners have challenged the order dated 07.01.2011 passed by the Deputy Commissioner, Rewari and the order dated 18.04.2012 passed by the Financial Commissioner, Urban Local Bodies Department, Haryana.

In short, resolution Nos.2(1) & 2(4) dated 05.07.2007 passed by the Municipal Council, Rewari were suspended by the Deputy Commissioner, Rewari on 07.01.2011. The said order was required to be approved by the Divisional Commissioner in terms of Section 249 of the Haryana Municipal Act, 1973 (hereinafter referred to as the "Act").

It is contended that since the approval of the Divisional Commissioner was not communicated to the petitioners, therefore, they had

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challenged only the order of the Deputy Commissioner by way of revision before the Financial Commissioner without giving any reason at all.

Counsel for the respondents has though submitted that the revision petition before the Financial Commissioner against the order of the Deputy Commissioner was not maintainable as the order of the Deputy Commissioner was not final without approval of the Divisional Commissioner but it cannot be lost sight of the fact that the order of the Divisional Commissioner was not conveyed to the petitioners by which he had approved the order of the Deputy Commissioner.

Thus, keeping in view the aforesaid facts and circumstances, the present writ petition is hereby allowed and only the order of the Financial Commissioner dated 18.04.2012 is set aside, providing opportunity to the petitioners to challenge the order of the Deputy Commissioner dated 07.01.2011 by which resolution Nos.2(1) & 2(4) dated 05.07.2007 of the Municipal Council, Rewari, were suspended and also the order of the Divisional Commissioner dated 31.03.2011 by which the said order of the Deputy Commissioner was approved. It is ordered that in case such a revision petition is filed within a period of one month from the date of passing of this order, the Financial Commissioner shall decide the same, after giving opportunity of hearing to both the parties and with a reasoned order, in accordance with law.

August 12, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No