

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12738 of 2015
Date of Decision:26.04.2016

Kishori Lal

. . . .Petitioner

Versus

The Union Territory of Chandigarh and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.D.V. Sharma, Sr. Advocate, with
Ms.Akshita Chauhan, Advocate,
for the petitioner.

Mr.Vivek Chauhan, Advocate,
for respondents No.1 to 4.

Mr.Puneet Gupta, Advocate,
for respondent No.5.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the order dated 18.6.2015 passed by the Secretary Agriculture, UT, Chandigarh, by which the petitioner has been reverted/restored to his designation of Mandi Supervisor-cum-Fee Collector.

Learned counsel for the petitioner has argued that the impugned order has been passed without issuing *show cause notice* and in violation of the basic principal of natural justice i.e. *Audi Alteram Partem*. It is further submitted that in the case of **“State of Orrisa Vs. Dr. Binapani Dei”** AIR 1967 (SC) 1269, it has been held by the Supreme Court that even an Administrative order has to be passed in consonance with the principal of nature justice if it is to effect a citizen in his civil life.

Learned counsel for the petitioner has submitted that the petitioner, joined as a Clerk in the Market Committee, was promoted

as Mandi Supervisor-cum-Fee Collector on 24.11.2005, designated as Mandi Law Officer on 5.3.2010 and further designated as Assistant Secretary, Market Committee on 11.2.2015. He has been reverted much less restored to his designation back to Mandi Supervisor-cum-Fee Collector on the representation/complaint made by some persons, which was received in the office of the Secretary Agriculture, UT, Chandigarh on 25.3.2015 as recorded in the order.

Learned counsel for the UT could not dispute this fact that the impugned order has been passed without issuing *show cause notice* to the petitioner and considering his stand.

Learned counsel for respondent No.5, however, submits that in case the impugned order is to be set aside by this Court and the matter is remanded back to the Secretary Agriculture, UT, Chandigarh, for a fresh decision to be taken, after hearing the petitioner, respondent No.5 or the similar persons, who have made the complaint against the designation of the petitioner, may also be given an opportunity of hearing.

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that the impugned order is passed in violation of the principals of natural justice as the petitioner has been ordered to be reverted/restored to his designation, without affording an opportunity of hearing though the petitioner has the reasons to contest the said order. It is well settled that even if the authority has the power to pass an order in terms of Section 42 of the Act yet it has to follow the principals of natural justice of affording an opportunity of hearing to the person, who is going to be effected by the order. Consequently, the order dated 18.6.2015 is hereby set aside. The matter is remanded back to

the Secretary Agriculture, U.T., Chandigarh to decide the matter after notice to the petitioner and the representationist on whose instance the impugned order has been passed. The petitioner may also agitate before the Secretary Agriculture, U.T. Chandigarh about the validity of Annexure P-26 as well.

The parties are directed to appear before the Secretary Agriculture, U.T., Chandigarh on 9.5.2016 at 11:00 A.M. The Secretary Agriculture, U.T., Chandigarh may take the decision as early as possible but preferably within a period of 30 days after the appearance of the parties.

26.04.2016*Vivek***(RAKESH KUMAR JAIN)
JUDGE**