IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.16489 of 2015
Date of Decision: December 13, 2016

Budha Devi through LRs

...Petitioners

Versus

The Financial Commissioner Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Nandan Jindal, Advocate,
for the petitioner(s).

Mr.B.M.Vinayak, DAG, Punjab.

Mr.Snehdeep Oberoy, Advocate, for
Mr.Piyush Gagneja, Advocate,
for respondent Nos.3, 10 to 13.

RAMESHWAR SINGH MALIK, J.(Oral)

Present writ petition is directed against the order dated 09.12.2014 (Annexure P-3) passed by the Financial Commissioner Revenue Punjab, whereby revision petition filed by the petitioners, was dismissed for non-prosecution and also the order dated 27.01.2015 (Annexure P-5) dismissing the application for restoration.

Notice of motion was issued and in compliance thereof, short reply by way of affidavit of Assistant Collector Ist Grade, Abohar, was filed on behalf of respondent Nos.1 and 2. However, no reply was filed on behalf of the private respondents.

Learned counsel for the petitioners submits that 09.12.2014 was the first date of hearing before the Financial Commissioner. He never sought any adjournment before that. However, on 09.12.2014 he could not put appearance before the Financial Commissioner when the case was taken up for hearing and it was dismissed for non-prosecution, however, without recording any justified reasons. He further submits that immediately after the passing of the impugned order, Annexure P-3, he moved the application for restoration, vide Annexure P-4 but even said application for restoration was dismissed by learned Financial Commissioner by totally non-speaking and cryptic order. He prays for setting aside the impugned orders by allowing the present writ petition.

When confronted with the impugned orders and the above-said contentions raised by learned counsel for the petitioners, learned counsel for the respondents could not deny correctness of the statement made by learned counsel for the petitioners and rightly so, it being a matter of record. In fact, bare reading of the impugned orders would show that learned Financial Commissioner misdirected himself while passing both the impugned orders. It is so said because impugned orders Annexures P-3 and P-5 are liable to be set aside for the reason that no appropriate reasons were recorded therein by the Financial Commissioner. Having said that, this Court feels no hesitation to conclude that the impugned orders cannot be sustained.

Learned Financial Commissioner failed to grant reasonable opportunity of being heard to the petitioners before passing the impugned order dated 09.12.2014 (Annexure P-3). Instead of passing the order

(Annexure P-3), learned Financial Commissioner could have adjourned the case granting at least one more opportunity to the learned counsel for the petitioners to argue the case. Further, when the application for restoration was filed, pointing out sufficient reasons by the learned counsel for the petitioners for his non-appearance on 09.12.2014, said application for restoration ought to have been allowed by learned Financial Commissioner instead of passing the impugned order (Annexure P-5). It also goes without saying that learned Financial Commissioner was duty bound to record sufficient reasons in support of his impugned orders. However, he did not do so, for the reasons best known to him and the impugned orders are liable to be set aside, for this reason as well.

No other point was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since impugned orders Annexures P-3 and P-5 passed by the Financial Commissioner, Revenue Punjab, are wholly unjustified on facts as well as in law, the same cannot be sustained.

Accordingly, impugned orders dated 09.12.2014 (Annexure P-3) and dated 27.01.2015 (Annexure P-5) are hereby set aside. Revision petition bearing ROR No.651 of 2014 stand restored to its original number. Financial Commissioner-respondent No.1 is directed to decide the revision petition after granting an opportunity of being heard to the petitioners, by passing appropriate orders, strictly in accordance with law.

The petitioners are directed to appear before the Financial Commissioner-respondent No.1 on 22.12.2016.

With the abovesaid observations made and directions issued, present writ petition stands disposed of, however, with no order as to costs.

December 13, 2016 **(RAMESHWAR SINGH MALIK)**
seema **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*