

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

CWP No. 25777 of 2016 (O&M)

Date of decision : 8.3.2017

Nassar Ahmed and another .. Petitioners

versus

State of Haryana and others .. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. H.P.S. Bhinder, Advocate, for the petitioners.
Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

Service of Gram Panchayat is complete. However, no one has appeared.

Challenge in the present petition is to the order dated 13.10.2016 passed by the Collector, Yamunanagar (for short 'the Collector'), vide which the appeal filed by the petitioners against the order dated 24.12.2015 passed by the Assistant Collector, First Grade-cum-District Development and Panchayat Officer, Yamunanagar (for short 'the Assistant Collector'), has been dismissed only on the ground that the petitioners had failed to deposit the amount of penalty imposed vide impugned order.

The only contention raised by learned counsel for the petitioners is that application filed by the petitioners along with the appeal seeking waiver from pre-deposit of amount of penalty was not considered by the Appellate Authority in terms of the Five Judges Bench judgment of this Court in Ranjit Singh vs. State of Haryana and others, 2012 (2) RCR (Civil) 353, where in it was opined that the provisions of Section 13-B of

the Punjab Village Common Lands (Regulation) Act, 1961 provided that the Appellate Authority can waive off the condition of pre-deposit of amount in deserving cases.

Learned counsel for the State did not dispute the aforesaid legal position.

After hearing learned counsel for the parties and considering the law laid down in Ranjit Singh's case (supra), in our opinion, the order passed by the Collector cannot be sustained, as the appeal filed by the petitioners has been dismissed merely by noticing that they had failed to deposit the amount of penalty imposed by the Assistant Collector. The application filed by the petitioners seeking waiver from pre-deposit was not considered.

For the reasons mentioned above, the impugned order dated 13.10.2016 passed by the Collector is set aside. The matter is remitted back to him to consider the application filed by the petitioners seeking waiver from pre-deposit in terms of the law laid down by this Court in Ranjit Singh's case (supra).

The petition stands disposed of.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

8.3.2017
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No