

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

**C.R. No.527 of 2018 (O&M)
Date of Decision: January 24, 2018**

State of Haryana and others

...Petitioners

Versus

Santosh Raj

..Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Pawan Kumar Jangra, Addl. A.G. Haryana
for the petitioner-State.

FATEH DEEP SINGH, J.

A civil suit for declaration etc. was preferred by Santosh Raj, who retired as Assistant Food and Supplies Officer from the office of District Food and Supplies Controller, Ambala against the present petitioner-State of Haryana and during the course of proceedings vide impugned order dated 04.05.2017 Annexure P/1 the Court of learned Civil Judge, Junior Division, Jalandhar on account of non-filing of written statement within the requisite period struck off the defence of the defendants . The same is assailed before this Court in this revision.

Provisions of Order VIII Rule 1, though, are not mandatory but directory in nature provides that where a defendant fails to file written statement within the requisite period detailed therein, the Court for the reasons to be recorded before the expiry of period of 120 days from the date of service shall forfeit the right of the defendant to file written statement. The record reflects that the suit was filed on 22.4.2014 and the

defendant/present petitioner served with the process of the Court prior to January, 2016 and appeared on 17.10.2014 and in spite of having put in appearance did not file written statement rather choose to file application under Order VII Rule XI read with Section 20 CPC on 02.02.2016 and in between in spite of there being no legal embargo to file written statement failed to do so and which application stood decided vide order dated 18.04.2017 and again in spite of repeated adjournments did not file any written statement leading to passing of impugned order dated 4.5.2017 after more than one year which is duly admitted by learned counsel for the petitioner/State.

It is the very own conduct of the petitioner-State smacks of delaying tactics to attain sinister design for obviating the due process of law. Neither sufficient explanation is forthcoming nor any supportive document is there on the records. Apparently the impugned order does not suffer from any illegality and needs to be upheld. Thus, the petition being hopelessly without any merit stands dismissed in limine. Since the petitioner-State has unduly wasted the time of the trial Court as well as this Court necessitates imposition of cost of Rs.20,000/- which is to be initially paid by the defendant-petitioner reserving the rights of the State to recover the same from the responsible officer and shall be deposited in the Free Legal Aid Clinic, Jalandhar.

(FATEH DEEP SINGH)
JUDGE

January 24, 2018

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No