

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.10667 of 2018
Date of Decision:16.07.2018

Akashdeep Kaur

. Petitioner

Vs.

State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Atul Lakhanpal, Senior Advocate with
Mr.Arjun Lakhanpal, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner is aggrieved against the order dated 27.11.2017 passed by the Competent Authority and Administrator under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the Narcotic Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act'] by which he has confirmed the order of freezing/seizing dated 31.10.2017 passed by the Station House Office, Police Station, Nihal Singh Wala, District Moga, Punjab exercising his powers under Section 68F(2) of the NDPS Act and further directed that such properties, as per annexure attached to the order, shall not be transferred or otherwise dealt with in any manner except his prior permission.

In brief, one FIR No.104 dated 8.11.2012 under Section 15/61 of the NDPS Act was registered against Chand Singh s/o Billu Ram, resident of Village Himmatpura, Tehsil Nihal Singh Wala, District Moga on account

of seizure of 900 kilograms of poppy husk. The said Chand Singh was declared proclaimed offender on 3.10.2015 by the ASJ, Moga and was subsequently arrested on 31.8.2016. The SHO conducted the financial investigation into the illegally acquired properties of Chand Singh (Affected Person) and has passed seizing/freezing order on 31.10.2017 in terms of Section 68F(1) of the NDPS Act. The said order of seizing/freezing has been confirmed by the competent authority by the impugned order observing that the said properties have been acquired by the Affected Person (AP) by illegal trafficking of drugs and further that the AP did not choose to file any explanation regarding sources of investment towards the acquisition of properties despite the fact that specific opportunity was given to him.

The impugned order passed by the competent authority is admittedly appealable under Section 68-O of the NDPS Act before the appellate tribunal but the appeal has to be filed within 45 days but not after 60 days.

The petitioner instead of availing the statutory remedy of appeal, has preferred this petition on 19.4.2018 i.e. much after the expiry of four months from the date of passing of the impugned order dated 27.11.2017 without giving any reasonable explanation for not preferring the appeal before the appellate tribunal.

Thus, I am of the considered opinion that in the presence of the remedy of statutory appeal before the appellate tribunal, the writ petition is not maintainable because if this process is allowed to be adopted, the remedy of statutory appeal before the statutorily created appellate tribunals would not be filed and the entire scheme of the NDPS Act would be defeated in the name of the convenience of the litigant, who would just approach this Court

to invoke its extraordinary jurisdiction which is generally available when there is no statutory remedy.

In view of the aforesaid, the present petition is hereby dismissed.

16.07.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned

:

Yes/No

Whether Reportable

:

Yes/No