

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

CWP No.2090 of 2018
DATE OF DECISION:20.02.2018

Harish Chander & others

...Petitioners

Vs.

The Financial Commissioner Haryana & others

..Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Som Nath Saini, Advocate
for the petitioners.

Mr. Rajesh K. Sheoran, Additional A.G., Haryana.

Mr. Partap Singh, Advocate
for respondent No.5-Caveator.

DAYA CHAUDHARY, J.(ORAL)

Original record of the case has been produced in the Court and the same has been perused. In some of the orders only the request has been made for adjournment mainly on the request of counsel for the respondent who is now petitioner in the present petition. The arguments were heard and thereafter the case was adjourned. Admittedly on 26.10.2017, the concerned officer did not hold the Court and order was passed stating that oral arguments as well as written submissions had been considered. It is the case of the petitioner that he was not present, on the date of passing of the order as he was told by the Reader that the court was not being held on that date. It was also mentioned in the list that all cases were adjourned for 11.01.2018. Learned counsel for the petitioner submits that it is apparent that the order was passed at the back of the parties but

wrongly they were marked to be present. It has also been admitted by learned State Counsel that Court was not held on 26.10.2017 but he submits that earlier oral arguments were heard and written submissions were also considered at the time of pronouncement of the order.

Learned counsel for respondent No.5 submits that earlier arguments were heard and written submissions given by both the parties were also considered and thereafter the case was fixed for pronouncement of order only. Learned counsel also submits that as per instructions of respondent No.5, the order was passed in his presence.

On perusal of last order, it appears that oral arguments were heard but it can not be believed that arguments could be heard when concerned officer was not holding the Court. This order cannot be interpreted that oral arguments were taken into consideration. Moreover there was no occasion to pronounce the judgment/order when he was not holding the Court.

In view of the facts as mentioned above, the present petition is allowed and order dated 26.10.2017 is quashed. However, the respondent Financial Commissioner, Haryana is directed to reconsider the case and decide afresh on merits after getting opportunity to both the parties. The necessary exercise be done within a period of two months after giving proper notice to the parties. It is also made clear that both the parties are supposed to be present on that date as fixed.

20.02.2018

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(DAYA CHAUDHARY)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No