

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

**CM No. 4390 of 2018 in/and
CWP No. 3473 of 2018
Date of Decision: 24.4.2018**

Surender Yadav @ Satish

.....Petitioner

v.

State of Haryana and others

.....Respondents

CORAM HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Ajay Jain, Advocate, for the applicant/petitioner

Mr. Saurabh Mohunta, DAG, Haryana

RAKESH KUMAR JAIN, J.

CM No. 4390 of 2018 :

This application is filed for placing on record the rejoinder to the reply filed by respondents No.1 to 3.

Application is allowed. Rejoinder is taken on record.

Main Case :

This petition is filed for seeking the issuance of a writ in the nature of mandamus to direct the respondents to proceed in accordance with law as envisaged under the Haryana Road Infrastructure Protection Act, 2017 (for short 'the Act') and the Rules framed thereunder.

The grievance of the petitioner is that the Sub Divisional Engineer (SDE) had passed an order on 22.11.2017, as per which the petitioner has to remove or demolish the boundary wall of the school. The petitioner while availing its remedy of appeal, submitted the objections inadvertently to the same officer i.e. SDE who has passed the order on 22.11.2017 though the said

objections were to be filed before the Executive Engineer in terms of Section 7 of the Act.

Learned counsel for the respondents has submitted, while referring to Annexure R-3, appended with its reply, that the petitioner had himself agreed to remove the said construction but learned counsel for the petitioner in this regard has submitted that the said consent is duly explained in the replication/rejoinder.

Learned counsel for the respondents has further submitted that the period for deciding the appeal/objections by the Executive Engineer is three days.

Be that as it may, since the petitioner has the remedy of filing the objections against the order passed by the SDE on 22.11.2017 and the objections were inadvertently filed before him only, therefore, while disposing of this petition, it is hereby directed that the petitioner shall now submit the objections against the order dated 22.11.2017 passed by the SDE, to the Confirmatory Authority (Executive Engineer) who is further directed to decide the objections of the petitioner within 3 days as provided.

Needless to mention here that in case the objections are filed by the petitioner within 7 days from the date of receipt of certified copy of this order, the order of stay granted on 15.2.2018 would continue.

(RAKESH KUMAR JAIN)
JUDGE

24.4.2018

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No