

CWP-751-2016

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

CWP-751-2016

Date of Decision: 01st February, 2019

Des Raj

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Devender Arya, Advocate,
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. J.P. Sharma, Advocate
for respondent No.2.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 29.07.2015 (Annexure P-6) passed by the Financial Commissioner, Haryana – respondent No.1, whereby, the case has been remanded back to the Assistant Collector 1st Grade, Mohindergarh, for deciding the matter afresh after giving an opportunity of hearing to all the interested persons and following the due course of law.

2. It is the contention of the learned counsel for the petitioner that all the Courts below had returned the findings in favour of the petitioner and it is, only at the stage of the filing of revision petition, the Financial Commissioner, Haryana, has proceeded to hold that respondent No.2 has not been given a proper opportunity of being heard especially with regard to

the objection of Naqsha Bey having not been called for. He contends that the order as passed by the Financial Commissioner, Haryana, dated 29.07.2015 (Annexure P-6) cannot sustain as the same is contrary to the record.

On 27.10.2017, following order was passed:-

“Learned State counsel is directed to produce the entire records of the Assistant Collector, Mahendergarh as the issue involved in this case is as to whether order dated 10.02.2011 with regard to Naksha Bey was passed by that Court or not?

Adjourned to 04.12.2017.”

3. In compliance to the above order, when records were not produced by the Tehsildar, Mohindergarh, costs of ₹ 50,000/- was imposed upon the Tehsildar personally to be paid to the petitioner. Affidavit dated 08.01.2019 filed by the Naib Tehsildar, Satnali, District Mohindergarh, wherein, it has been stated that no Tehsildar has been posted at Mohindergarh and therefore, the orders could not be complied with. In the light of the said affidavit, order dated 07.12.2018 is hereby recalled to the extent of imposing costs of ₹ 50,000/- upon the Tehsildar, Mohindergarh.

4. Today, records have been produced in Court. With the assistance of the counsel for the parties, I have gone through the records of the case and find the assertion of the counsel for the petitioner to be correct as after the revival of the case, when the matter was under consideration, counsel had filed his Power of Attorney on behalf of respondent No.2 and

the attendance marked in the records also gives an indication that the counsel for the parties were present on various dates. Naksha Bey is also on record and objections have been called for. Despite various dates having been given, no objection has been filed by respondent No.2.

5. In the light of the above, findings as recorded by the Financial Commissioner, Haryana, in its order dated 29.07.2015 (Annexure P-6) being contrary to the records cannot sustain and deserve to be aside.

6. In view of the above, this writ petition is allowed and the impugned order dated 29.07.2015 (Annexure P-6) stands quashed.

01st February, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No