

CWP-9505-2020 (O&M)

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

**CWP-9505-2020 (O&M)
Date of Decision: August 11, 2020**

MANINDER SINGH Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. P.K. Ganga, Advocate for the petitioner.

Ms. Safia Gupta, Asstt. AG., Haryana.

Mr. Jagjit Singh Gill, Advocate for respondent no.4.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner being aggrieved of order dated 29.06.2020 (Annexure P-7), passed by the learned Financial Commissioner, Haryana has filed the present writ petition. The petitioner preferred an appeal before the learned Financial Commissioner, Haryana, challenging order dated 13.02.2020, (Annexure P-2) passed by respondent no.2. The said appeal is pending before the learned Financial Commissioner, Haryana.

An ex-parte order dated 02.06.2020 (Annexure P-4) was passed by respondent no.1, affording interim relief of status quo to the petitioner, resulting in him carrying on at the post of Lamberdar. An application was moved by respondent no.4 for setting aside the said ex-parte order dated

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02.06.2020, on the ground that a caveat petition had been filed but order dated 02.06.2020 was passed without hearing respondent no. 4. When the application filed by respondent no.4 was not listed, CWP-8171-2020 was filed by him, which was disposed of vide order dated 17.06.2020, Annexure P-6, with a direction to respondent no.1 to decide the application filed by respondent no.4 within one week. Consequent thereto, respondent no.1 vide impugned order dated 29.06.2020 (Annexure P-7) vacated the interim relief granted vide order dated 02.06.2020 while observing that the detailed order would be released later. In this situation, the present writ petition was filed. While noting down the facts, notice of motion was issued in this writ petition on 09.07.2020, while directing that order dated 02.06.2020 shall continue and that the petitioner be not divested of the charge of Lamberdar.

In the meantime, detailed order as mentioned in order dated 29.06.2020 was passed. The same is attached as Annexure R-2 with the reply filed on behalf of respondent no.4. It is observed therein that the *status quo* order was obtained without disclosing the filing of a caveat petition by respondent no.4. It is further observed that irrespective of whether or not a caveat petition is maintainable in proceedings before a Revenue Court, the order dated 02.06.2020 was obtained without disclosing the same. Therefore, interim relief was vacated. In the interregnum an application was filed by the petitioner for recalling the order dated 29.06.2020 before the learned Financial Commissioner, Haryana and bringing to its notice, order dated 09.07.2020 passed in this petition.

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It is brought to my notice, by learned counsel for the parties that, the learned Financial Commissioner, Haryana, vide order dated 13.07.2020 has directed that order dated 02.06.2020 shall continue. Copy of the order dated 13.07.2020 has been forwarded on the WhatsApp group created for the purpose of video conference today. The relevant para of order dated 13.07.2020 reads as under:-

“The counsel was asked to produce case law with regard to his submission that caveat application does not lie before the revenue court. The counsel has just produced a revenue court order regarding summary proceedings under the mutation and no specific case law of the Hon’ble High Court or the Hon’ble Supreme Court has been submitted. However, the counsel has produced the order of the Hon’ble High Court restoring stay order dated 02.06.2020. In view of the order passed by the Hon’ble High Court, further proceedings will be taken up after decision of the Hon’ble High Court in CWP No.9505 of 2020 which is fixed for 23.07.2020. In the meanwhile the order dated 02.06.2020 will continue.”

Learned counsel for respondent no.4 submits that the said respondent has no objection in case order dated 02.06.2020, remains operative during the pendency of the appeal pending before the learned Financial Commissioner, Haryana, provided it is decided in a time bound manner. Ld. counsel for the petitioner prays for disposal of this petition in the said terms and further submits that the petitioner undertakes not to delay the hearing of the appeal in any manner. No serious objection thereto has been raised by learned counsel for the State.

Keeping in view the specific stand of the parties, but without any expression of opinion on the merits of the matter, this petition is disposed of with a direction that the appeal pending before the learned Financial Commissioner, Haryana be decided expeditiously and preferably

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within two months from the date of receipt of certified copy of this order and in the meantime order dated 02.06.2020 as mentioned in order dated 13.07.2020, passed by the Financial Commissioner, Haryana to remain operative.

11.08.2020

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No