

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRM-M-27443-2020(O&M)
Date of decision : 11.09.2020

Shyam Sunder

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Navmohit Singh, Advocate for the petitoiiner.

Mr. Saurabh Mohunta, DAG, Haryana.

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

As per pleadings on record vehicle No. HR-39-D-9039 make TATA was confiscated by the police pursuant to FIR No. 568 dated 08.12.2019, under Section 13(1), 13(2), 20 of The Haryana Gauvansh Sanrakshan and Gausamvardhan (Amendment) Act, 2019 having been registered at Police Station Tosham.

Challenge in the instant petition is to the order dated 25.02.2020 (Annexure P-1) passed by the Sub Divisional Magistrate, Tosham dismissing the application that had been moved by the petitioner seeking release of the vehicle on superdari. Further challenge is to the order dated 04.08.2020 passed by the Deputy Commissioner, Bhiwani (Annexure P-2) dismissing the appeal preferred by the petitioner as not maintainable.

Counsel for the parties have been heard.

Section 17(5) of The Haryana Gauvansh Sanrakshan and Gausamvardhan (Amendment) Act, 2019 reads in the following terms:-

“Section 17(5):-Any person aggrieved by an order made by the competent authority under sub-section (2) or sub-section (4) may, within a period of thirty days from the date of such order prefer an appeal to the Deputy Commissioner of the district concerned.”

Bare perusal of the statutory provision reproduced herein above would make it abundantly clear that against an order passed by the Sub Divisional Magistrate an appeal was maintainable to the Deputy Commissioner if the same is preferred within a period of 30 days.

Mr.Saurabh Mohunta, learned DAG, Haryana is not in a position to rebut such remedy of statutory appeal being available to the petitioner against the order dated 25.02.2020 (Anexure P-1) passed by the Sub Divisional Magistrate, Tosham.

In view of the above this Court does not find any necessity of examining the order of the Sub Divisional Magistrate, Tosham dated 25.02.2020 on merits.

The order dated 04.08.2020 passed by the Deputy Commissioner at Annexure P-2 is set aside. Matter is remanded back to the Deputy Commissioner, Bhiwani to decide the appeal preferred by the petitioner against the order of the Sub Divisional Magistrate, Tosham on merits.

Petitioner is directed to appear before the Deputy Commissioner, Bhiwani on 28.09.2020. Respondent No.3 is directed to pass an order on merits after affording opportunity of hearing to the parties concerned within a period of four weeks thereafter.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

September 11, 2020
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No