

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

121

Civil Writ Petition No.3741 of 2022 (O&M)
Date of Decision: May 18th, 2022

Kiran Pal and others

...Petitioners

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. R.S. Mamli, Advocate
for the applicant/petitioners.

Ms. Rajni Gupta, Additional Advocate General, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-6482-CWP-2022

Prayer in this application is for exemption from filing
certified/typed copies of Annexure A-1.

Application is allowed subject to just exceptions.

Exemption, as prayed for, is granted.

CM-6484-CWP-2022

Prayer in this application is for placing on record the grounds of
appeal, copy of stay application as well as exemption application for depositing
the penalty as Annexure A-1.

Application is allowed subject to just exceptions.

Documents Annexure A-1 are taken on record.

CWP No.3741 of 2022

Learned counsel for the petitioners, in pursuance to the initial
order dated 02.03.2022, has placed on record the application dated 20.08.2018,
which is an application for exemption to deposit the penalty amount as
ordered on 15.02.2018 by the Assistant Collector 1st Grade-cum-District

Development and Panchayat Officer, which application has not been considered and decided, rather the Appellate Authority has simply proceeded to dismiss the appeal on the ground that the amount of penalty has not been deposited taking the plea that the mandate as per Section 13-B of The Punjab Village Common Lands (Regulation) Act, 1961, the amount of penalty had to be pre-deposited before the appeal could be entertained. This the learned counsel for the petitioners contends is a misinterpretation of the said Section, especially in the light of the Full Bench judgment of this Court in ***Ranjit Singh Versus State of Haryana and others 2012 (2) R.C.R. (Civil) 353***, wherein it has been held that there is no bar of interfering in the exercise of jurisdiction by the Appellate Authority merely on the ground that an amount of fine has not been deposited. In case the appellant is able to demonstrate the difficulty which is likely to be faced by the said person in depositing the amount, it is the discretion of the Appellate Authority to waive of or keep that amount in abeyance during the pendency of the appeal depending upon the equities of the parties. He, on this basis, contends that the impugned order dated 27.03.2019 (Annexure P-3) passed by the Collector, Yamuna Nagar, and order dated 24.11.2020 (Annexure P-4) passed by the Commissioner, Ambala Division, Ambala, cannot sustain and deserve to be set aside.

Learned counsel for the State has informed the Court that as a matter of fact such an application had been moved for exemption from deposit of the penalty amount.

A perusal of the order passed by the Appellate Authority does not indicate that the said application had been considered or decided by the said authority.

In the light of the judgment of the Full Bench of this Court as referred to above, we allow the writ petition by setting aside the impugned orders dated 27.03.2019 (Annexure P-3) and 24.11.2020 (Annexure P-4) passed by the Collector, Yamuna Nagar, and Commissioner, Ambala Division, Ambala, respectively and remand the case back to the Appellate Authority i.e. the Collector, Yamuna Nagar, for fresh decision on the prayer for exemption from deposit of the penalty amount as also the appeal. The said exercise be completed within a period of two months from the date of appearance of the parties.

Parties are directed to appear before the Collector, Yamuna Nagar, on **08.06.2022 at 10:00 AM**.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 18th, 2022
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No