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

CWP-7646-2022

Date of Decision: 28.09.2022

Sukhwant Singh (deceased) Through LR

..... Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Naveen, Advocate and
Mr. Jagnahar Singh, Advocate
for the petitioner.

Mr. K.S. Kang, Senior DAG, Punjab
for respondents No.1 and 2/State.

Mr. A.P. Kaushal, Advocate
for respondent No.3.

LISA GILL J. (ORAL)

Petitioner is aggrieved of impugned order dated 04.03.2022 (being endorsement dated 16.03.2022) (Annexure P-7), whereby Director, Rural Development and Panchayat (exercising the powers of Commissioner), Punjab (respondent No.2) has allowed the application under Section 5 of the Limitation Act, 1963 filed by Gram Panchayat, Village Akbarpur, Tehsil and District Kapurthala (respondent No.3) seeking condonation of delay of 3 years and 10 months in filing appeal under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 by passing a totally non-speaking order.

Learned counsel for the petitioner submits that colossal delay

of 3 years and 10 months has been condoned by learned Commissioner vide

order dated 04.03.2022 (Annexure P-7) merely by passing a single line order without advertence to any of the pleas raised by petitioner opposing the condonation of such delay.

Reply dated 25.04.2022 on behalf of respondent No.3 filed in Court today is taken on record subject to just exceptions.

We have heard learned counsel for the parties.

Perusal of record reveals that Appeal No.270 of 2020 was filed by Gram Panchayat, Village Akbarpur, Tehsil and District Kapurthala (respondent No.3) challenging order dated 04.03.2016 (Annexure P-3), in which an application seeking condonation of delay of 3 years and 10 months in filing the said appeal was also sought. The said delay was condoned by learned Commissioner vide impugned order dated 04.03.2022 (Annexure P-7) while passing the following order:-

“Delay is condoned. Case is adjourned for 08.04.2022 for arguments in the main case.”

Perusal of impugned order dated 04.03.2022 (Annexure P-7), reveals that the Appellate Authority has failed to discharge the obligation placed as the impugned order is totally non-speaking and cryptic. It is well settled that a quasi-judicial authority is bound to pass a well reasoned order. A non-speaking order deprives an affected party of an effective opportunity to represent against the same. Failure to give reasons amounts to denial of justice. Hon'ble Supreme Court in **“Mahabir Prasad Santosh Kumar Vs. State U.P. and others, AIR 1970 Supreme Court 1302”**, held as under:-

“ 7. Opportunity to a party interested in the dispute to present his case on questions of law as well as fact, ascertainment of facts from materials before the Tribunal after disclosing the materials to the party against whom it is intended to use them, and

adjudication by a reasoned judgment upon a finding of the facts in controversy and application of the law to the facts found, are attributes of even a quasi-judicial determination. It must appear not merely that the authority entrusted with quasi-judicial authority has reached a conclusion on the problem before him : it must appear that he has reached a conclusion which is according to law and just, and for ensuring that end he must record the ultimate mental process leading from the dispute to its solution. Satisfactory decision of a disputed claim may be reached only if it be supported by the most cogent reasons that appeal to the authority. Recording of reasons in support of a decision on a disputed claim by a quasi-judicial authority ensures that the decision is reached according to law and is not the result of caprice, whim or fancy or reached on grounds of policy or expediency. A party to the dispute is ordinarily entitled to know the grounds on which the authority has rejected his claim. If the order is subject to appeal, the necessity to record reasons is greater, for without recorded reasons the appellate authority has no material on which it may determine whether the facts were properly ascertained, the relevant law was correctly applied and the decision was just.”

Though learned counsel for respondent No.3 submits that there are sufficient grounds for condonation of delay, therefore, impugned order dated 04.03.2022 has been correctly passed, he is unable to deny that it was indeed imperative that opportunity of hearing should have been provided to the petitioner and pleas raised by him opposing the condonation of such delay should have been considered before condoning delay in filing of the said appeal. Admittedly the petitioner has a direct and substantial interest in the matter and it is imperative for the Appellate Authority to record the

specific reasons for condonation of delay in filing the appeal. Admittedly in the present case, the impugned order is totally non-speaking, sketchy and cryptic with not even a whisper of any reasoning leave alone considered reasoning indicating the basis of the decision.

Accordingly, impugned order dated 04.03.2022 (Annexure P-7) is set aside and the matter is remanded to learned Commissioner, Rural Development and Panchayat, Vikas Bhawan, Sector-62, SAS Nagar to pass a well reasoned and considered order on the application seeking condonation of delay in filing appeal under Section 11 of the Punjab Village Common Lands (Regulations) Act, 1961 in accordance with law, after affording an opportunity of hearing to the parties.

Writ petition is accordingly disposed of.

It is clarified that there is no expression of opinion on the merits of the matter.

(LISA GILL)
JUDGE

28.09.2022
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No