

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

CWP-14706-2022

Date of Decision: October 27, 2022

NARINDER SINGH

..... Petitioner

Versus

**LD. JOINT DEVELOPMENT COMMISSIONER (I.R.D.), PUNJAB AND
ORS**

..... Respondents

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

Present: Mr.P.S. Bajwa, Advocate for the petitioners.

Mr. Sandeep Jain, Addl. AG, Punjab.

LISA GILL, J.

Prayer in this writ petition is for setting aside order dated 31.07.2019 (Annexure P2) passed by Joint Development Commissioner, SAS Nagar, Mohali - respondent No. 1. It is submitted that petitioner filed a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short – ‘PVCL Act’) which was allowed by learned Collector/Divisional Deputy Director, Rural Development and Panchayat, Patiala vide order dated 17.05.2004 (Annexure P1), which has been set aside vide impugned order dated 31.07.2019.

Learned counsel for the petitioner submits that appeal challenging order dated 17.05.2004 was preferred by the respondent – Gram Panchayat after colossal delay on 19.09.2013. This appeal, it is contended, was allowed by the Commissioner on 31.07.2019 without even touching the question of delay in

filing thereof, though notice was issued in the application for condonation of delay on 12.12.2013. There was no adjudication on the aspect of delay in filing of the appeal. It is submitted that no plausible reason has been set forth by the respondent - Gram Panchayat for condonation of delay, however, without condoning the delay in filing of the appeal the same was decided on merits by the Commissioner vide order dated 31.07.2019. In this view of the matter, it is prayed that this petition be allowed.

Learned counsel for the State was directed to seek instructions in this regard on 13.07.2022. Short reply by way of affidavit dated 27.10.2022 filed in Court today with copy thereof to learned counsel for the petitioner is taken on record subject to just exceptions.

It is verified in affidavit dated 27.10.2022 that the appeal was decided by the then Commissioner on 31.07.2019 without there being any order condoning the delay in filing of the appeal.

Learned counsel for the State is unable to deny that decision of the appeal on merit without condoning the delay in filing thereof is impermissible. Accordingly, impugned order dated 31.07.2019 is set aside on this limited ground and the matter is remanded to the Joint Development Commissioner, SAS Nagar, Mohali for deciding the matter afresh after first considering the application for condonation of delay of over ten (10) years in accordance with law. Application/appeal be decided within a period of three months from the date of receipt of certified copy of this order after affording due opportunity of hearing of all affected/concerned parties. Petitioner through counsel to appear before the Joint Development Commissioner, SAS Nagar, Mohali on 14.11.2022.

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

Present writ petition is disposed of, accordingly.

(LISA GILL)
JUDGE

October 27, 2022

Rts

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No