

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

CWP-20946-2022
Date of Decision: 28.09.2022

SWARAN SINGH AND OTHERS ...Petitioners
Versus

STATE OF PUNJAB AND OTHERS ...Respondents

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

Present : Mr. Ish Puneet Singh, Advocate
for the petitioners.

Mr. K.S. Kang, Sr. D.A.G., Punjab.

HARSH BUNGER, J.

Petitioners have filed the instant writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing of order dated 04.03.2022 (Annexure P-8) passed by respondent No.2-Director, Department of Rural Development and Panchayat, Punjab (exercising the powers of Commissioner under Punjab Village Common Lands (Regulations) Act, 1961).

Shorn of unnecessary details, the brief facts are that petitioners along with respondent No.5 filed a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (here-in-after referred to as 'the Act, 1961') to the effect that they are owners in possession of land measuring 42 kanals 7 marlas comprised in *khasra no.62 (7-19), 63(13-0), 95(5-12), 96(8-0), 121 (7-16)* situated in Village Chak Shah Kala, Tehsil Bhulath, District Kapurthala as per jamabandi for the year 2011-12.

Respondent no.4-Gram Panchayat, Village Damullian appeared in the said

case and filed its written statement and from the pleadings of the parties, the issues were framed. Additional Deputy Commissioner (D)-cum-Collector, Panchayat Lands, Kapurthala, vide its order dated 12.04.2016 (Annexure P-4) allowed the petition under Section 11 of the Act, 1961 filed by the petitioners, wherein, it was held that the land in question does not vest in the *Gram Panchayat* and the petitioners were declared as owners in possession thereof.

It appears that subsequently, respondent No.4-Gram Panchayat, Village Damullian, Tehsil Bholath, District Kapurthala, filed an appeal under Section 11(2) of the Act, 1961, challenging the order dated 12.04.2016 (Annexure P-4). Along with appeal, an application seeking condonation of delay of 1367 days was also filed by Gram Panchayat, Damullian. Reply to the application (Annexure P-7) was filed by the present petitioners.

The above referred appeal along with application seeking condonation of delay was taken up by respondent No.2-Director, Rural Development and Panchayat Department, Punjab, who vide its order dated 04.03.2022 (Annexure P-8) condoned the delay and summoned the lower Court record.

The petitioners are aggrieved of said order dated 04.03.2022 (Annexure P-8), whereby, the application for condonation of delay filed by respondent No.4-Gram Panchayat, Village Damullian, was allowed and the delay condoned without any reasoning.

Upon issuance of notice of motion, learned counsel for the State of Punjab appeared on behalf of respondents No.1 to 3, however, no reply has been filed.

We heard learned counsel for the parties and went through the record with their able assistance.

It is the contention of the petitioners that respondent No.2 has passed the impugned order dated 04.03.2022 (Annexure P-8) on the application of Gram Panchayat, Damullian (respondent No.4), seeking condonation of delay in filing Appeal no.62 of 2020, without recording any reasons/findings of sufficient cause warranting condonation of delay and delay of 1367 days has been erroneously condoned. It is further contended that the impugned order is totally non-speaking, which is unsustainable in the eyes of law.

Learned counsel for the State appearing for respondents No.1 to 3 is unable to deny that the order condoning the delay of 1367 days is totally non-speaking and cryptic.

Impugned order dated 04.03.2022 passed by respondent No.2-Director, Department of Rural Development and Panchayat, Punjab (exercising the powers of Commissioner under Punjab Village Common Lands (Regulations) Act, 1961), reads as under :-

“ Delay is condoned. The case is adjourned for 08.04.2022. Lower Court record is summoned.”

Perusal of above-said order dated 04.03.2022 reveals that delay of 1367 days in filing the appeal has indeed been condoned by learned Commissioner/Appellate authority without recording even a semblance of reason. It is to be noted that a *quasi judicial* authority, while passing an order, is expected to notice the contentions raised by the respective parties and thereafter, pass the order reflecting the reasoning forming the foundation of the basis of the decision. The impugned order dated 04.03.2022 being absolutely cryptic, non-speaking is clearly unsustainable.

Accordingly, order dated 04.03.2022 (Annexure P-8) passed by respondent No.2-Director, Department of Rural Development and Panchayat, Punjab (exercising the powers of Commissioner under Punjab Village Common Lands (Regulations) Act, 1961), is set aside. Parties are directed to appear before the concerned officer exercising the powers of Commissioner under the Act, 1961 on the next date fixed in the main appeal or to be fixed for the purpose of granting an opportunity of hearing to the petitioners and thereafter, decide the same in accordance with law by passing a reasoned and speaking order, before proceeding to entertain the main appeal on merits.

Writ petition is accordingly disposed of.

(LISA GILL)
JUDGE

(HARSH BUNGER)
JUDGE

September 28, 2022
gurpreet

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