

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

CWP-17273-2022

Date of Decision: 27.09.2022

JIWAN LATA

..... Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

..... Respondent(s)

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

Present: Mr. Parvinder Singh, Advocate for the petitioner.

Mr. K.S. Kang, Senior DAG, Punjab,
for respondents no.1 to 3.

Mr. M.S. Jolly, Advocate
for respondent no.4.

LISA GILL, J.

Petitioner is aggrieved of order dated 23.06.2022 (Annexure P-14), whereby the Commissioner, Rural Development and Panchayat Department, SAS Nagar – respondent no.2, has allowed the application under Section 5 of the Limitation Act, 1963, filed by respondent no.4 – Gram Panchayat, village Muradpur seeking condonation of delay in filing the appeal under Section 11(2) of the Punjab Village Common Lands (Regulation) Act, 1961 without issuance of notice to the petitioner.

Learned counsel for the petitioner submits that colossal delay of 1843 days was condoned by the learned Commissioner without as much as issuance of notice to the petitioner, leading to irreparable loss and injury to the petitioner. It is submitted that it was incumbent upon the learned Commissioner to have heard the petitioner before condoning such huge delay but in the instant case, notice was also not issued. It is thus prayed that this writ petition be allowed.

Reply filed on behalf of respondent no.4 in Court today with a copy thereof to learned counsel for the petitioner, is taken on record, subject to just exceptions.

Heard learned counsel for the parties.

Perusal of impugned order dated 23.06.2022 reveals that delay of 1843 days in filing of the appeal has indeed been condoned by learned Commissioner without even issuance of notice to the petitioner, arrayed as respondent therein. Though learned counsel for respondent no.4 submits that there are sufficient grounds for condonation of delay, therefore, the order has been correctly passed, he is unable to deny that it was indeed imperative that an opportunity of hearing should have been provided to the petitioner before condoning delay in filing of the appeal. Admittedly the petitioner has a direct and substantial interest with a right to file reply and be heard before passing of such an order. Impugned order has indeed been passed incorrectly while blatantly flouting the principle of *audi alteram partem*.

Accordingly, impugned order dated 23.06.2022 (Annexure P-14) is set aside and the matter remanded to the learned Commissioner, Rural Development and Panchayat Department, SAS Nagar (Mohali), to pass an order afresh on the application seeking condonation of delay in filing of appeal under Section 11(2) of the Punjab Village Common Lands (Regulation) 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

(HARSH BUNGER)
JUDGE

27.09.2022

Sunil

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