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

**1. CWP No.6281 of 2015**
**GREEN EARTH SOCIETY (REGD.)**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**2. CWP No.13095 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**3. CWP No.13096 of 2015**
**GREEN WORLD SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**4. CWP No.13097 of 2015**
**GREEN WORLD SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**5. CWP No.13098 of 2015**
**GREEN WORLD SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**6. CWP No.13099 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**7. CWP No.13100 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**8. CWP No.13101 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**9. CWP No.13102 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**10. CWP No.13103 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**11. CWP No.13104 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**12. CWP No.13105 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**13. CWP No.13106 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**14. CWP No.13107 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**15. CWP No.13108 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**16. CWP No.13109 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**17. CWP No.13110 of 2015**

**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**18. CWP No.13111 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**19. CWP No.13112 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**20. CWP No.13113 of 2015**
**GREEN EARTH SOCIETY**

**...Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**...Respondents**

**Reserved on: July 08, 2022**
**Pronounced on: July 22, 2022**

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Kanwaljit Singh, Senior Advocate with
Ms. Neha Anand, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

**JAISHREE THAKUR, J.**

1. By this common judgment, this Court is proposing to decide these above mentioned 20 writ petitions as a common question of law arises. For the sake of brevity, the facts are taken from *CWP No.6281 of 2015.*

2. The present writ petition has been filed seeking a writ in the nature of certiorari to be issued for quashing the order dated 08.07.2014 (Annexure P-8) passed by the Financial Commissioner (Revenue), Punjab, Chandigarh, by which order, he

has reversed the order dated 07.06.2011 (Annexure P-7) of the Divisional Commissioner, Patiala Division, Patiala and upheld the order dated 06.01.2009 (Annexure P-5) passed by the Collecter, in proceedings under Section 47-A of the Indian Stamp Act, 1899, as applicable to the State of Punjab.

3. In brief, the facts as stated are that the petitioner herein is a Charitable Institution and is a duly registered society having its Head Office at Mohali and the present petition has been filed through its authorized representative. As per the Memorandum of Association of the Green Earth Society i.e. the petitioner herein, the main objectives are to acquire and allot lands/plots to members of the society having a common interest in the protection of the nature/environment; to protect, promote, cultivate natural vegetation, flora and fauna and to provide food, clothes and other articles to poor and deprived sections of the society etc. The certificate of registration of the Society is appended as Annexure P-2/A. The petitioner purchased 315 kanals 06 marlas of land, which was a *Gair Mumkin Pahar* falling in Village Karoran in SAS Nagar, Mohali. The sale deed was executed on 02.11.2006 and no stamp duty was paid on the registration of the said sale deed on the ground that all Charitable Institutions/NGOs have been exempted from payment of stamp duty. After the execution of the sale deed, the Sub-Registrar, Majri sent a report to the Collector, SAS Nagar saying that the registered sale deeds have been entered and sent a reference to the Collector, SAS Nagar doubting the genuineness of the petitioner-Society being a Charitable Institution. It is alleged that the petitioner never received any notice either from the Sub-Registrar, Majri or from the Collector, SAS Nagar. Vide order dated 06.01.2009 (Annexure P-5), the Collector, SAS Nagar ordered the petitioner-Society to pay the deficit stamp duty along with 12% interest per annum amounting to Rs.5,32,080/- and was also directed to pay the registration fee of Rs.10,000/-. Thereafter, an appeal was filed under Section 47-A of

the Indian Stamp Act, 1899 (The Act of 1899 for short) challenging the said order, which was allowed vide order dated 07.06.2011 (Annexure P-7) by the Divisional Commissioner, Patiala Division, Patiala. Against the said order, the State filed a revision petition before the Financial Commissioner (Revenue), Punjab, Chandigarh, under Section 56 of the Indian Stamp Act, 1899, which was allowed vide order dated 08.07.2014 (Annexure P-8) whereby, the order of the Divisional Commissioner, Patiala Division, Patiala, was set aside and order as passed by the Collector, SAS Nagar was affirmed. The order of the Financial Commissioner (Revenue), Punjab, Chandigarh, has been assailed in these proceedings.

4. Learned Senior Advocate appearing on behalf of the petitioner herein submits that the impugned order dated 08.07.2014, passed by the Financial Commissioner (Revenue), Punjab, Chandigarh, is wholly without jurisdiction as revision petition filed against the order of the Divisional Commissioner, Patiala Division, Patiala, under Section 56 of the Indian Stamp Act, 1899, would not be maintainable. It is submitted that the Divisional Commissioner, Patiala Division, Patiala, while setting aside the order of the Collector, SAS Nagar, had taken into account the notification dated 20.02.1981 (Annexure P-6), which specifically provided that all Charitable Institutions are exempted from payment of stamp duty and as the petitioner is a Charitable Institution, it would not be liable to pay the stamp duty as assessed by the Collector, SAS Nagar.

5. Per contra, learned counsel appearing on behalf of the State of Punjab would urge that there is no infirmity in the orders so passed as Section 56 of the Act of 1899 provides that the Chief Controlling Revenue Authority shall exercise control over the powers exercised by the Collector under Chapter IV and V and, therefore, the revision petition filed before the Financial Commissioner (Revenue), Punjab, Chandigarh, was maintainable. It is argued that the Divisional Commissioner, Patiala

Division, Patiala had failed to take into account the fact that the petitioner was not a Charitable Institution and, therefore, the petitioner-Society could not be exempted from paying the stamp duty.

6. I have heard learned counsel for the parties and on the pleadings and submissions made, the main question that would require determination would be whether the order as passed by the Financial Commissioner (Revenue), Punjab, Chandigarh under Section 56 of the Indian Stamp Act, 1899 is sustainable or not?

7. Section 56 of the Indian Stamp Act, 1899 is reproduced as under:-

> *56.* ***Control of, and statement of case to, Chief Controlling Revenue-authority.*** *— (1) The powers exercisable by a Collector under Chapter IV and Chapter V [1][and under clause (a) of the first proviso to section 26] shall in all cases be subject to the control of the Chief Controlling Revenue-authority.*
>
> *(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-authority.*
>
> *(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to asses and charge the duty (if any) in conformity with such decision.*

8. At this juncture, it would be interesting to note that the term 'Chief Controlling Revenue Authority' has not been defined under the Act of 1899 and, therefore, Section 3 Clause 10 of the General Clauses Act has to be read to understand as to who would be the 'Chief Controlling Revenue Authority'. As per the said Clause, the Financial Commissioner (Revenue), Punjab, Chandigarh would be the Chief Controlling Revenue Authority for the purposes under this Act.

9. Section 56 of the Act of 1899 provides for the control of the Chief Controlling Revenue Authority over the Collector. The Collector is the main authority

under the said Act, but the powers exercised by him under Chapter IV and V and under Clause (a) of the first proviso to Section 26 would be subject to control of the Chief Controlling Revenue Authority. The powers as exercisable by the Collector are further defined under Section 56(2) of the Act, which clearly reads that if any Collector, acting under Section 31, Section 40 or Section 41 has any doubt as to the amount of duty which is chargeable on an instrument, he may then draw up a statement and refer it with his own opinion thereon for the decision of the Chief Controlling Revenue Authority. In other words, the powers as exercised by the Collector under Section 31 of the Indian Stamp Act, 1899 can be read to be an opinion sought by a person who brings any instrument, whether executed or not and whether previously stamped or not to the Collector for determination as to the correct stamp duty to be paid. Whereas, Section 41 of the Act of 1899 pertains to proceedings when a Collector acknowledges that the deficit stamp duty on an instrument has been occasioned by accident, mistake or urgent necessity, then he can accept the amount instead of proceeding to recover the same.

10. However, the Indian Stamp Act, 1899 has been amended as far as it concerns both the States of Punjab and Haryana. Aggrieved against any order as passed by the Collector in proceedings under Section 47-A of the Act, an appeal is to be filed under Section 47-A (4) of the Act before the Commissioner and that to within a period of three months. The only remedy available to the aggrieved party thereafter, would be to challenge the order of the Commissioner before the High Court under Article 227 of the Constitution of India. The Financial Commissioner (Revenue), Punjab, Chandigarh, in this case has exceeded his jurisdiction by deciding an issue which arises out of a reference made by the Sub-Registrar, Majri to the Collector, SAS Nagar, who passed orders under Section 47-A of the Indian Stamp Act, 1899. The Financial Commissioner (Revenue), Punjab, Chandigarh could have exercised

his jurisdiction upon an order passed by the Collector, when the Collector acts under Sections 31, 40 and 41 of the Indian Stamp Act, 1899, whereas the order impugned before him was passed by the Commissioner exercising his jurisdiction upon an appeal filed under Section 47-A(4) of the Act of 1899.

11. Therefore, this Court has no hesitation in holding that the orders so passed (Annexure P-8) was by a person not competent to do so and is thus, set aside.

12. As the respondents-State had filed a revision petition challenging the order passed by the Divisional Commissioner, Patiala Division, Patiala within limitation, before an authority not competent to entertain the same, liberty is given to challenge the orders afresh, within a period of two months from the date of receipt of the certified copy of this judgment.

13. Consequently, the instant writ petition stands allowed. The order of the Financial Commissioner (Revenue), Punjab, Chandigarh dated 08.07.2014 (Annexure P-8) is hereby set aside, giving the respondents-State the aforesaid liberty to challenge the impugned order before the appropriate forum.

**(JAISHREE THAKUR)**
**JUDGE**

**July 22, 2022**
**Chetan Thakur**

*Whether speaking/reasoned* *Yes/No*

*Whether reportable* *Yes/No*