

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

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CWP-2395-2023
Date of Decision: 14.02.2023

JAMNA DEVI AND ORS

... Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Raj Kumar Garg, Advocate
for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

Mr. D.K. Saldi, Advocate
for respondent No.6.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for issuance of a writ in the nature of Certiorari for seeking quashing of order dated 22.12.2022, whereby the application for *interim stay* has been dismissed by the Financial Commissioner by following as under:

“Order

Heard both the sides. Notice for record 09/02.2023. Stay is declined.”

Learned counsel for the petitioners contends that the application for *interim stay* has been dismissed by passing a non-speaking order and even without recording any of the contentions/submissions advanced by the counsel for the petitioners.

Notice of motion.

Mr. Vishnav Gandhi, DAG, Punjab accepts notice on behalf of respondents No.1 to 5 and Mr. D.K. Saldi, Advocate accepts notice on behalf of the respondent No.6/caveator.

Learned counsel for the respondent No.6/caveator submits that the main appeal bearing No.143 of 2022 is already listed before the Financial Commissioner for 16.02.2023. He fairly submits that the order in question cannot safely be said to be speaking order. He, however, submits that detailed arguments were heard by the Financial Commissioner at the stage of considering the aforesaid application. The said submission *ipso facto* necessitates that the Financial Commissioner ought to have dealt with the arguments raised by opining as to whether an interim order/protection is to be granted and/or is to be declined. The failure to delve in the arguments raised by the respective parties and the reasons adopted for passing of the aforesaid order renders the impugned order as non-speaking. Counsel for the respondent No.6/Caveator contends that he has no objection in case the instant petition is allowed and the impugned order is set aside with a direction to the Financial Commissioner to the Government of Punjab, Department of Rural Development and Panchayat to take a fresh decision on the pending appeal on the date already fixed or within a time bound manner.

Counsel for the respondent/State of Punjab as well as the counsel for the petitioners has no objection to the above.

In view of the facts noticed above and the statements made by the parties, the impugned order dated 22.12.2022 declining the stay in favour of the petitioners is set aside. The matter is remanded to the Financial Commissioner to the Government of Punjab, Department of Rural

Development and Panchayat to pass a fresh order in the said application and/or main appeal No.143 of 2022 on the date already fixed i.e. 16.02.2023 and/or within a period of one month thereafter, after affording opportunity of hearing to the respective parties and by passing a reasoned and speaking order.

Petition stands allowed accordingly.

14.02.2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*