

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(248)

CWP-8558-2020 (O&M)

Date of decision: - 23.03.2023

Brahma Nand

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rakesh Nehra, Senior Advocate
with Mr. Ankit Yadav, Advocate
and Mr. Sourabh Bhorla, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. V.K. Sheoran, Advocate
for the complainant.

VIKAS BAHL, J. (ORAL)

This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the second enquiry report dated 03.01.2020 (Annexure P-5) as well as impugned letters (Annexure P-8, P-10 and P-11).

Learned counsel appearing for the respondent-State as well as for the complainant have submitted that against the letter/order dated 20.02.2020, which has been issued under Section 53(2) of the Haryana Panchayati Raj Act, 1994 (for the short 'the Act'), an appeal lies under Section 53(3) of the Act and the present writ petition has been filed without availing the said remedy.

Learned Senior counsel appearing on behalf of the petitioner has submitted that he be permitted to withdraw the present writ petition with liberty to file an appeal under Section 53(3) of the Act. It is further submitted that the limitation for filing of appeal is 30 days and since the petitioner was pursuing the present remedy, thus, in case, the petitioner files an appeal within a period of one month from today, then, the same be not dismissed on the ground of limitation and the petitioner be permitted to raise all the pleas which have been raised in the present writ petition and are available to him as per law, before the appellate authority.

Keeping in view the above-said facts and circumstances, the present writ petition is dismissed as withdrawn, with the liberty to the petitioner to file an appeal before the appellate authority.

It is made clear that in case, the appeal is filed within a period of one month from today, then, the appellate authority would not dismiss the said appeal on the ground of limitation and it would be open to the petitioner to raise all the pleas which have been raised in the present writ petition and which are available to him, in accordance with law, before the appellate authority.

Pending application, if any, stands disposed of in view of the aforesaid order.

March 23, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No