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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9034-2023

Date of decision: 09.05.2023

Ranbir Singh and others

....Petitioners

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Saurav Bhatia, Advocate
for the petitioners.

Mr. V. G. Jauhar, Addl.A.G., Punjab.

Mr. Ashish Grover, Advocate
for respondent No.7.

AUGUSTINE GEORGE MASIH, J. (ORAL)

In pursuance to the order as has been passed by this Court dated 28.04.2023 followed by an order dated 05.05.2023; an affidavit of Additional Deputy Commissioner (General), Pathankot, on behalf of respondent No.3 dated 08.05.2023 has been filed in Court, wherein, in para 6 & 7, it has been stated as follows:

“6. That, an appeal in the office of Amritsar Development Authority, Amritsar was filed by petitioners through his counsel Sh. Ashwani Bansal and the same was sent to the deponent on dated 16.03.2023 to decide the appeal.

7. That, the appeal received from office of Amritsar Development Authority, Amritsar filed by the petitioner has been dismissed by the deponent on 27.03.2023 and decision of the same has been conveyed on the same day to Chief Administrator, Amritsar Development Authority, Amritsar vide letter no.70 and endorsement of the same has been done to the petitioner as well as his counsel vide letter no.71 and 72 dated 27.03.2023. The same has been endorsed to District Town Planner, Pathankot vide letter no.73 dated 27.03.2023.”

Learned counsel for the State has further intimated that as per notification of the Government of Punjab, Department of Housing and Urban

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Development dated 03.09.2022, the jurisdiction of the Appellate Authority has been conferred upon the Additional Deputy Commissioner (General), Pathankot. Counsel on this basis contends that the appeal has rightly been decided by Additional Deputy Commissioner (General), Pathankot.

This contention of learned counsel for the State cannot be accepted as the show cause notice dated 18.07.2022 (Annexure P-6) has been issued by the Additional Deputy Commissioner (General), Pathankot and, therefore, could not have acted as an Appellate Authority against its own notice which had been issued by the same authority. Coming into force of the subsequent notification conferring the power of an Appellate Authority upon a particular authority which has issued a show cause notice would not in those circumstances amount to conferring a power of an Appellate Authority against a notice which has been issued by the same authority. Person cannot be a judge in its own cause which is a settled principle and, therefore, the decision as taken by the Additional Deputy Commissioner (General), Pathankot, dated 27.03.2023 (Annexure R-6) cannot sustain and is hereby set aside.

Let the decision be taken by the Appellate Authority as it existed at the time of issuance of the show cause notice by the Additional Deputy Commissioner (General), Pathankot by intimating the date of hearing and granting opportunity of hearing to the parties.

Till the decision is taken by the Appellate Authority, the order passed by this Court dated 20.04.2023 shall enure.

(AUGUSTINE GEORGE MASIH)
JUDGE

(HARPREET SINGH BRAR)
JUDGE

09.05.2023*Neha*

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