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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.15724 of 2022
Date of Decision : 16.08.2023

Mahender Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jarnail Singh Saneta, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Ram Bhati, Advocate for
Mr. Naresh Kumar, Advocate
for respondent No.6.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed for issuance of a writ in the nature of certiorari/mandamus for quashing the impugned order dated 04.02.2022 passed by learned Commissioner, Karnal Division, Karnal vide which the appeal filed by the petitioner has been adjourned *sine die* illegally and unlawfully and further directing the Commissioner, Karnal Division, Karnal to decide the appeal filed by the petitioner in a time bound manner.

It has been contended by learned counsel for the petitioner that post of Lambardar was vacated on account of death of Sh.Desh Raj, son of Mahela Ram under the general category. On account of the same, munadi was conducted vide order dated 13.06.2013 and applications were invited for the post of Lambardar. He submits that in pursuance to the

munadi conducted, the petitioner and other candidates applied for the same. However, learned Collector on analysis of the *interse* merits and character antecedents of all the candidates finally appointed respondent No.6 as Lambardar of village Rair Kalan, Tehsil Madlauda, District Panipat vide his order dated 25.08.2021. He submits that the petitioner challenged the same by way of filing the appeal before the Commissioner dated 20.09.2021. He submits that thereafter the respondent had issued executive instructions dated 23.11.2021 which reads as under:

“Matter regarding appointments of Nambardars including Sarbarah in the State is reviewed by the Government and it has been decided that all fresh appointments of Lambardars including Sarbarah Lambardars in Haryana may be frozen in the State from the date of issue of orders till the assessment of the requirement of Lambardars and their duties in the modern circumstances is undertaken. This will apply to all appointments which are presently under consideration of the competent authorities but where appointment has not been made till date.”

He submits that thereafter on 04.01.2022, respondent No.6 did not appear in the Court of learned Commissioner even after the summon was served upon him through Tehsildar Madaluda and the case was adjourned to 04.02.2022. He submits that the learned Commissioner had adjourned the appeal filed by the petitioner *sine die* by misinterpreting the instructions dated 23.11.2021. He submits that the executive instructions dated 23.11.2021 were not applicable to the case of petitioner as the matter was pending before the Quasi Judicial Authorities since 2013. It is

submitted that decision of the Commissioner adjourning the case *sine die* is totally misinterpretation of the instructions. He submits that due to abovesaid order, the petitioner is suffering an irreparable loss.

Learned counsel for respondent No.6 has opposed the submissions made by learned counsel for the petitioner. However, he submits that the instructions are totally applicable to the case in hand as it would be considered as fresh appointment as the Commissioner has directed to carry out a fresh munadi.

Learned State counsel, on instructions, has submitted that though the Commissioner has adjourned the case *sine die* by passing a order dated 04.02.2022 which was passed in view of the instructions dated 23.11.2021.

In view of the submissions made by learned counsel for both the parties and perusing the material on record, this Court is of the opinion that the order passed by the Commissioner is not a speaking one. The case of petitioner was already pending adjudication before the authorities since 2013 and no speaking & reasoned order has been passed by the Commissioner, Panipat while adjourning the case as *sine die*.

Keeping in view the facts and circumstances of the case, the present petition stands disposed of and impugned order dated 04.02.2022 (Annexure P-5) being cryptic is hereby set aside. The Commissioner, Panipat is directed to decide at the first instance the issue as to how the instructions dated 23.11.2021 are applicable to the case of petitioner which was already pending when the said instructions came into being, by

passing a speaking order as per law within a period of four weeks from today. Parties would be at liberty to avail their remedies in accordance with law.

16.08.2023
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(RAJESH BHARDWAJ)
JUDGE

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