

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-4489-2017

Date of decision : 20.04.2023

Suman Devi

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.V.P.Sangwan, Advocate for the petitioner.

Ms.Upasana Dhawan, AAG, Haryana for respondents no.1 to 3.

Mr.Bhupander Ghangas, Advocate for respondent no.4.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in nature of certiorari quashing enquiry dated 27.05.2016 as well as letter dated 23.08.2016. Other prayers have also been made in the present writ petition.

2. Learned State counsel as well as learned counsel for respondent no.4 have pointed out that in the present case, the order under Section 53(2) of the Haryana Panchayati Raj Act, 1994 (in short "the Act") has been passed on 02.06.2016 (Annexure P-2) and subsequent letter dated 23.08.2016 (Annexure P-3) is a follow up letter. It is submitted that the order dated 02.06.2016 is appealable under Section 53(3) of the Act and the petitioner has not availed the said remedy and has instead approached this Court.

3. Learned counsel for the petitioner has submitted that since the order dated 23.08.2016 was in the form of a letter, thus, he filed the present writ petition and in view of the above statement, the petitioner seeks to withdraw the present petition with liberty to file an appeal under Section

file an appeal within a period of one month from today and in case of his doing so, the appellate authority be directed not to dismiss the appeal of the petitioner on the ground of limitation. It is further submitted that a coordinate Bench of this court, vide order dated 06.03.2017, had granted stay of the impugned order and prays that the same be continued for a period of one month.

4. Learned counsel for the respondents have submitted that they have no objection to the said course of action.

5. Keeping in view the above said facts and circumstances, the present petition is dismissed as withdrawn with liberty to the petitioner to file an appeal against the impugned order. In case the appeal is filed within a period of one month from today, then the appellate authority will not dismiss the same on the ground of limitation. The interim order dated 06.03.2017 granted by the coordinate Bench of this Court would continue for a period of one month and further continuance of the said stay order would be considered by the appellate authority independently in accordance with law.

6. It is made clear that this Court has not opined on the merits of the case and grant of interim order should not be construed as an expression on the merits of the case and the appellate authority would consider the case independently in accordance with law. The appellate authority is directed to decide the appeal within a period of six weeks from the date the same is filed.

(VIKAS BAHL)
JUDGE

April 20, 2023

Davinder Kumar