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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.23754 of 2021
Date of Decision : 31.08.2023

Kalyan Singh

..... Petitioner

Versus

Financial Commissioner, Haryana (Revenue) and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sudhir Rana, Advocate
for the petitioner.

Mr. Rahul Dev Singh, Addl. A.G., Haryana.

Mr. Sarvjit Singh Khurana, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed for quashing the impugned order dated 13.10.2021 (Annexure P-7); order dated 28.04.2021 (Annexure P-5) and order dated 29.01.2020 (Annexure P-3) vide which the ROR No.6 of 2018/19 has been dismissed in default and also the application for restoration of the same has been dismissed. Further prayer has been made for directing respondent No.1 to restore the ROR on its original number and to hear the case on merits.

It has been contended by learned counsel for the petitioner that the petitioner filed ROR No.6, which was fixed for hearing before the learned Financial Commissioner for 29.01.2020. However, the petitioner due to unavoidable circumstances, could not appear before the Court and thus, the ROR was dismissed in default vide order dated 29.01.2020.

Thereafter, the petitioner filed an application for restoration of the same, which was fixed for hearing on 28.04.2021 but as the petitioner was not intimated about the listing of the case, the application for restoration was also dismissed in default on the date fixed i.e. 28.04.2021. He submits that thereafter second application was filed for restoration, which was also dismissed vide order dated 13.10.2021 as the counsel for the petitioner was admitted in the hospital.

Learned counsel for the petitioner submits that learned Financial Commissioner has dismissed the ROR for non prosecution without appreciating the circumstances. He submits that as the petition has not been heard on merits, so he is suffering an irreparable loss. He submits that absence of the petitioner was totally unintentional and bona fide and one effective opportunity be given to the petitioner for which he undertakes to appear before the Court concerned and argue his case on merits.

From perusal of the record, it is apparent that ROR which was dismissed for non prosecution and the subsequent applications for restoration were also dismissed for non prosecution were primarily during the Pandemic period and thus, absence of counsel was totally unintentional. However, keeping in view the equity and to meet the ends of justice, this Court is of the opinion that the ROR filed by the petitioner should be restored to its original number and be heard on merits.

After hearing learned counsel for the parties and perusing the record, the present petition stands disposed of. Accordingly, the impugned orders are set aside. The ROR filed by the petitioner is restored to its

original number and respondent No.1 is directed to hear the case of petitioner on merits on 20.09.2023 and decide the same in accordance with law. However, the petitioner is directed to deposit a cost of Rs.10,000/- in the Poor Patient Welfare Fund, PGIMER, Chandigarh within 10 days from today. Learned counsel for the petitioner would produce the receipt of payment before the Financial Commissioner along with appropriate application within two weeks from today and only then ROR will be restored to its original number.

It is made clear that if the petitioner fails to comply with the above direction, this order would be of no avail to him.

(RAJESH BHARDWAJ)
JUDGE

31.08.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No