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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-29862-2022 (O&M)
Date of decision:20.02.2023

AJAY KUMAR AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Vikram Singh Punia, Advocate
for the petitioners.

SURESHWAR THAKUR, J. (ORAL)

CM-2916-CWP-2022

Application asking for leave to amend the writ petition is allowed.

Amended writ petition is taken on record.

Application stands disposed of.

MAIN CASE

1. The petitioners are aggrieved from an order drawn on 03.12.2021 by the learned Collector Sonipat. The said order is embodied in Annexure P-8. Annexure P-8 stands drawn in pursuance to directions passed by this Court upon CWP-32088 of 2019. The challenge as made to Annexure P-8 by the learned counsel for the petitioners, is rested on the ground, that the petitioners were not heard by the learned Collector concerned, prior to the impugned order being recorded. He submits that since the elections to the various offices of the Gram Panchayat concerned, were held subsequent to the passing of the order carried in Annexure P-8. Therefore, he submits that the representation, if any, which, as

was made on behalf of the Gram Panchayat Manauli by the BDPO concerned, wherefrom Gram Panchayat Toki has been created, through a notification drawn on 08.10.2004, was not an able nor an effective representation, as the said BDPO was a government functionary, and, was not the democratically elected Sarpanch of the Panchayat concerned. If so, the order carried in Annexure P-8 may suffer from a vice of the democratically elected representative(s) concerned, of the Panchayat concerned, being deprived to espouse their cause before the learned Collector concerned.

2. Be that as it may, without going into the merits of the order, as carried in Annexure P-8, given as submitted by the learned counsel for the petitioners, that yet there is an available alternative statutory remedy to assail Annexure P-8, through an appeal being cast thereagainst, before the learned Commissioner concerned. Thus, this Court relegates the petitioners to the above alternative remedy. The apposite statutory appeal be forthwith filed against Annexure P-8, before the learned Commissioner concerned, but at the instance of the democratically elected representatives of the Panchayat concerned. On such an appeal being filed, the same shall be lawfully decided but after giving an adequate opportunity of hearing to all affected concerned. The apposite decision be made within two months of the preferment of the statutory appeal.

3. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

20.02.2023

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(KULDEEP TIWARI)
JUDGE

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