

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-2807-2024

Date of decision : 08.02.2024

Bir Singh (since deceased) Through his LRs

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sudhir Rana, Advocate
for the petitioners.

RAJESH BHARDWAJ, J. (Oral)

This petition has been filed praying for quashing the order dated 04.07.2023 (Annexure P-2) passed by respondent No.2 whereby the appeal filed by the petitioners has been dismissed being time barred. Further prayer has been made that one opportunity be granted to the petitioner to file fresh appeal before the learned Collector, Karnal and Deputy Commissioner and the learned Collector, Karnal and Deputy Commissioner may be directed to decide the appeal on its merits.

Precise grievance raised by the petitioners against the impugned order is that the appeal filed by them has not been dealt with on merits and the same has been dismissed as time barred. He submits that there was delay of only three days after passing of the order by this Court on 01.06.2023 and as it was the vacation period, petitioner bonafidely filed the appeal and the delay if any was totally unintentional. He submits that learned Deputy Commissioner without appreciating the facts and circumstances of the case and legal provisions, dismissed the appeal filed by the petitioners solely on the ground of limitation which is totally unsustainable in the eyes of law.

Notice of motion. On asking of the Court, Ms. Upasana Dhawan, AAG, Haryana accepts notice on behalf of the State. She has opposed the submissions made by counsel for the petitioners. She has submitted that this Court disposed of his earlier petition with a specific direction to file the appeal within one month and as the petitioners filed the appeal beyond that limitation period, hence, the same was resultantly dismissed.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the appeal filed by the petitioners has not been heard on merits and the same has been declined on the ground of limitation being delayed by three days. This Court finds that the order was passed by this Court during the vacation period. Even otherwise three days delay in filing the appeal cannot deprive the petitioners from consideration of their appeal on merits. Thus, the order dated 04.07.2023 (Annexure P-2) being unsustainable in the eyes of law is hereby *set aside*. The delay occurred is condoned. The case is remanded to the Appellate Authority for deciding the same on merits. The petitioner is at liberty to avail, all his grounds available, before the Appellate Authority. Appellate Authority will issue notice to both the parties and decide the case and pass the order afresh expeditiously.

08.02.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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