

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

CWP-3124-2024

Date of decision : 12.02.2024

Balbir Singh

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. J.P. Sharma, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for quashing of the impugned order dated 10.01.2024 (Annexure P-4) passed by respondent No.2 vide which the application for the restoration of the appeal was wrongly dismissed. Further prayer has been made for acceptance of the restoration application dated 03.01.2024 (Annexure P-3) and for directing No.2 to decide the appeal on merits.

Inter alia, it has been contended by counsel for the petitioner that petitioner filed appeal against impugned notice/order dated 15.12.2021 under Section 53(2) of the Haryana Panchayati Raj Act, 1994. It is submitted that the appeal was fixed for hearing before learned Collector on 02.01.2024 and as the counsel for petitioner was arguing the case before another Court, he could not make himself available before the learned Presiding Officer, however, his junior counsel appeared for making the request. He submits that on account of the same, appeal filed was dismissed for non-prosecution on 02.01.2024. He submits that absence of counsel for the petitioner was not intentional and it is only because of unavoidable circumstances, he could not make himself available. He submits that the application for restoration was filed on the very next day i.e. 03.01.2024. However, learned Presiding

Officer without appreciating the submissions made therein has declined the application for restoration of the appeal. It is submitted that the petitioner would suffer irreparable loss and injury if he is not provided the opportunity of hearing and the appeal is not decided on merits.

Notice of motion.

On asking of the Court, Ms. Upasana Dhawan, AAG, Haryana accepts notice on behalf of the State. She submits that neither the petitioner nor his counsel appeared on the date fixed on the appeal and as such the same was rightly dismissed for non-prosecution.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the appeal has been dismissed for non-prosecution and the case has not been decided on merits. In the facts and circumstances of the case, this Court finds that the impugned order dated 10.01.2024 is unsustainable in the eyes of law as the same is violative of the principles of natural justice. The impugned order dated 10.01.2024 is *set aside* and the appeal filed by the petitioner is restored to its original number. The Presiding Officer is directed to hear both the sides and decide the appeal on merits expeditiously in accordance with law. However, it is being clarified that if the petitioner or his counsel unnecessarily prolong the proceedings, the Presiding Officer would be at liberty to pass any order in accordance with law.

Disposed of in above terms.

12.02.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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