

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26476-2023 (O/M)

Date of decision : 11.11.2024

Jarnail Singh Manhas

..... Petitioner

Versus

The Financial Commissioner, Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Rohit Sapehiya, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. R.S. Manhas, Mr. R.S. Pathania, Advocates
for respondent No. 4.

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HARSH BUNGER, J. ORAL)

1. Petitioner (Jarnail Singh Manhas) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 28.08.2023 (Annexure P-13), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner').

2. Briefly, an appeal bearing No. ROA 57 of 2010, filed by present petitioner (Jarnail Singh) in proceedings relating to appointment of Lambardar of village Chhangla, Teshil Mukerian, District Hoshiarpur, came to be decided by learned Financial Commissioner, vide order dated 21.12.2017 (Annexure P-9), whereby learned Divisional Commissioner's order dated 06.10.2010 was set aside and the matter was remanded to learned District Collector, Hoshiarpur, to pass a fresh order, after giving due opportunity of hearing to all the concerned parties.

2.1 The present petitioner filed a review application bearing No. R.P. 25 of 2018, seeking recall of order dated 21.12.2017 (Annexure P-9), passed by learned Financial Commissioner. The said application came to be allowed by learned Financial Commissioner, vide order dated 09.01.2023 (Annexure P-11), the operative part of which reads as under :-

“3. Heard. In view of the averments made by Sh. R.S. Chauhan, Advocate, Ld. Counsel for the appellant and statements made by Sh. R.S. Pathania, Advocate, Ld. Counsel for the respondent, I am of the view that the order dated 21.12.2017 passed by my predecessor requires to be rectified. Therefore, the order dated 21.12.2017 passed by Financial Commissioner (Appeals) is recalled. The case is fixed for rehearing of the case on 20.02.2023.”

2.2 In pursuance to the aforesaid order dated 09.01.2023 (Annexure P-11), the main ROA 57 of 2010 was ordered to be listed for re-hearing. However, it appears that learned Financial Commissioner took up Review Petition No. 25 of 2018 again for hearing and dismissed the same, vide order dated 28.08.2023 (Annexure P-13).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. I have heard learned counsel for respective parties and have perused the paperbook with their able assistance.

5. Learned State counsel as well as learned counsel for respondent No. 4 have not disputed the fact that Review Petition No. 25 of 2018 already stood allowed by learned Financial Commissioner, vide order dated 09.01.2023 (Annexure P-11) and, therefore, there was no occasion for learned Financial Commissioner to re-decide the same

application i.e. Review Petition No. 25 of 2018, vide impugned order dated 28.08.2023 (Annexure P-13). It is conceded that the aforesaid order dated 28.08.2023 (Annexure P-13) is unsustainable in the eye of law.

6. In view of the aforesaid submissions, impugned order dated 28.08.2023 (Annexure P-13), passed by learned Financial Commissioner is set aside with a direction that concerned learned Financial Commissioner shall take up the main appeal i.e. ROA No. 57 of 2010 for final hearing, in pursuance to the order dated 09.01.2023 (Annexure P-11) and decide the same after affording due opportunity of hearing to all concerned parties by passing a speaking order in accordance with law within a period of six months from the date of appearance of the parties before him. The concerned parties are directed to appear before learned Financial Commissioner on 18.12.2024 or any other date as may be fixed by the office of learned Financial Commissioner.

7. The instant civil writ petition is accordingly disposed of.

8. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

11.11.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No