



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

**CWP No. 15375-2025
Reserved on: 03.07.2025
Pronounced on:15.07.2025**

KAMALJIT KUMAR & ANOTHER

... PETITIONERS

Versus

**THE APPELLATE TRIBUNAL FOR FORFEITED PROPERTY &
OTHERS**

... RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr. Suram Singh Rana, Advocate,
Mr. Arvind Kr. Sharma, Advocate and
Mr. Dipanshu Kapur, Advocate, for the petitioners.

Mr. Saurav Verma, Addl. Advocate General, Punjab,
for respondent No.3.

SANJIV BERRY, J.

1. By way of the present petition, the petitioners have sought quashing of the impugned order dated 07.08.2023 (Annexure P-2) and further order dated 07.01.2025 (Annexure P-8) qua dismissal of the appeal by the respondent No.1 on account of non-removal of the objections/defects therein filed against seizing/freezing of the property of the petitioner under Section



68 (F)(2) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. As per the case, the petitioners were involved in the FIR No. 86 dated 08.09.2022, under Section 21/22/25/29 of the NDPS Act, Police Station Sadar Banga, District SBS Nagar (Nawanshahr). Consequently, on the basis of the order under Section 68(F)(1) of the NDPS Act, having been passed, by the Station House Officer of the concerned police station, the Competent Authority/ Administrator passed the order (under Section 68 (F)(2) of the NDPS Act dated 07.08.2023 (Annexure P-2), confirming the freezing order dated 10.07.2023 qua the property of the petitioners.

3. The petitioners preferred the appeal before the Appellate Tribunal, which however, was dismissed being defective vide order dated 07.01.2025 (Annexure P-8).

4. Heard learned counsel for the parties.

5. At the very outset, it is not disputed by learned counsel for the petitioners as well as learned State counsel that appropriate remedy to challenge the order passed by the Competent Authority under Section 68 (F) (2) of the NDPS Act is by way of appeal as provided under Section 68 (O) of the NDPS Act.

6. It is the contention of the learned counsel for the petitioners that the petitioners had preferred an appeal under Section 68 (O) of the NDPS Act before the Appellate Tribunal, which however was dismissed vide order dated 07.01.2025 (Annexure P-8) being defective on account of the inability of the petitioner No.2 to remove certain defects. It is pointed out by learned counsel for the petitioners that the sole defect which could not be rectified by



the petitioners was regarding the fact that “petitioner No.2 should also sign paper book and file duly sworn affidavit in support of the averments made in the appeal.”

7. Learned counsel for the petitioners has apprised this Court of the fact that petitioner No.2 is lodged in Jail and request was made to the concerned Superintendent Jail for getting the affidavit of petitioner No.2 attested but he required orders from the Court to that fact and due to this reason, the defect could not be cured, due to reasons beyond his control, however, he is ready to get the defect cured and sought indulgence of this Court.

8. Learned counsel for the State has not disputed the fact that the appeal filed by the petitioners has been dismissed by the Appellate Tribunal being defective mainly on account of the aforesaid defects.

9. Considering the facts and circumstances, it is deemed appropriate that when the remedy of appeal is provided under Section 68 (O) of the NDPS Act and the petitioners have already filed the appeal before the designated forum, the Appellate Authority ought to have decided the appeal on merits, rather than throwing it away on account of the aforesaid defects especially when the removal of same was not within the control of the petitioner No.2, being lodged in Jail.

10. Consequently, this Court, without commenting on the merits of the case, lest the Appellate Authority may be prejudiced, dispose of the present petition with the direction to the petitioners to submit the copy of petition/application and also the affidavit of petitioner No.2 before the concerned Superintendent of Jail within 7 working days from the receipt of



copy of this order and in that event the concerned Superintendent of Jail is directed to get it signed from the petitioner No.2, in his presence and also get the affidavit of petitioner No.2 duly attested from the Oath Commissioner to be taken along with by the counsel/representative for the petitioner immediately in accordance with rules and thereafter the petitioners will file the requisite application before the Appellate Authority within 15 days thereof for the revival of the appeal, dismissed being defective vide order dated 07.01.2025 (Annexure P-8), and in that event the concerned Appellate Authority will decide the same on the merits of the case.

11. The petition stands disposed of by setting aside the administrative order of Appellate Tribunal dismissing the appeal of petitioners on the basis of peremptory order dated 07.01.2025 (Annexure P-8).

12. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

15.07.2025

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No