



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

120-2

Decided on : 27.08.2025

LPA-1737-2025 (O&M)

GURMAIL SINGH ALIAS GURMEJ SINGH AND ANOTHER

. .Appellants

Versus

STATE OF PUNJAB AND ANOTHER

. . . Respondents

LPA-1786-2025 (O&M)

NAIB SINGH THROUGH HIS LRS AND OTHERS

. .Appellants

Versus

STATE OF PUNJAB AND ANOTHER

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

PRESENT: Mr. H. S. Dhandi, Advocate for the Appellants.

Mr. TPS Chawla, Sr. DAG, Punjab.

HARSIMRAN SINGH SETHI , J. (Oral)

1. Present two appeals, the details of which are mentioned in the heading, involve common point of law and common set of facts, hence, they are being dealt together. For the sake of convenience, the facts are being taken from LPA No. 1737 of 2025.

2. In the present appeal, the challenge is to the impugned order dated 03.12.2024 passed by Hon'ble Single Judge, by which, the writ petition bearing CWP No. 17653 of 1994 and CWP-16813 of 1994 filed by the appellants-petitioners have been dismissed.



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2. Learned counsel for the appellants argues that the predecessors in interest of the appellants herein had purchased the land from one big land owner, namely, Jatinder Kaur vide sale deed dated 30.09.1953 and after the promulgation of the Punjab Security of Land Tenure Act, 1953 (herein after referred to 1953 Act), the surplus area proceedings were initiated against Jatinder Kaur and the land purchased by predecessors of appellants was declared surplus land on 31.11.1961 by learned Collector, Ferozpur.

3. Learned counsel for the appellants while placing reliance upon the instructions dated 22.07.1961 issued by the Government of Punjab argues that the area of land which has been declared surplus, but has been purchased by a land less person or small land owners, who have no relation with the big land owner, namely, Jatinder Kaur in the present case, between the period 15.04.1953 to 15.07.1958 should not be utilized for resettlement.

4. Learned counsel for the appellants submits that thereafter again, the instructions dated 19.07.1966 (Annexure P-1) were issued by the Punjab Government to the same effect whereas, while issuing the notice to the appellants for the vacation of the land under Section 9 (1) of the Punjab Land Reforms Act, 1972, the said instructions were not kept in mind and the land purchased by the predecessor-in-interest of the appellants were not given the benefit of sale-deed dated 30.09.1953.

5. Learned counsel for the appellants further submits that the afore said instructions were liable to be given effect to even if, the same were contrary to the 1953 Act, but the learned Single Judge has failed to appreciate the said issue while passing the impugned order dated 03.12.2024.

6 We have heard learned counsel for the parties and have gone through the case file with their able assistance.



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7. It may be noticed that though, it is being pleaded that by a registered sale deed dated 30.09.1953, the land was purchased by the predecessor-in-interest of the appellants herein from Jatinder Kaur, but it is also a conceded position that the land which was purchased by them has been declared as surplus land on 31.11.1961, as any sale which occurred after the promulgation of 1953 Act was to be ignored.

8. Nothing evident has come on record to show that the appellants ever challenged the declaration of land in question which they had purchased as a surplus land before the competent authority. The land in question remained as a surplus land though, the same was in the possession of the appellants.

After the promulgation of The Punjab Land Reforms Act, 1972 (herein after referred to 1972 Act), Section 9 (1) of the 1972 Act gave power to the State to get the possession of the surplus area and keeping in view the said provisions, notices were issued to the appellants for surrendering the possession of the land in question which was declared the surplus by treating the same to be the ownership of Jatinder Kaur. The said notices were challenged before this Court and ultimately, the learned Single judge while deciding the said petitions has recorded the findings that keeping in view the provisions of 1953 Act as well as 1972 Act, the surplus land, if purchased after the promulgation of 1953 Act will be deemed nullity and as per 1972 Act, the said land will be deemed to be vested with the State and possession of the same can be taken by the Government.

9. Learned counsel for the appellants has not been able to rebut the said findings given by the learned Single Judge while passing the impugned order dated 03.12.2024.



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10. Hence, it can be safely said that as per the 1953 Act and 1972 Act, the surplus land stands vested with the State Government to be used for rehabilitation purpose.

11. The only argument which has been raised by learned counsel for the appellant is that the instructions dated 22.07.1961, 19.07.1966 (Annexure P-1) and 21.08.1986 (Annexure P-2) which were issued by the Government gives a right to the appellants to protect the said land to be in their ownership.

12. It may be noticed that any instructions issued by the Government which run contrary to the Act cannot be given effect to even if issued by the State.

13. As per the settled principle, settled by Hon'ble Supreme Court of India in Civil Appeal No. 822 of 2023, titled as "Ashok Ram Parhad and others versus The State of Maharashtra and others", decided on March 15, 2023 any instructions issued by the Government which are contrary to the main provisions, under which, the same have been issued, the main provisions of the Act will supersede the contrary instructions issued by the Government. The relevant paragraph of the said judgment is as under:-

"25. In service jurisprudence, the service rules are liable to prevail. There can be Government resolutions being in consonance with or expounding the rules, but not in conflict with the same. On having set forth this general proposition, we now examine the scenario of the Rules as prevalent. If we turn to the statutory Rules framed under Article 309 of the Constitution, i.e., the 1984 Rules, Rule 2 refers to the appointment to the post of the DFO and the same to be made by promotion from amongst officers of



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the Maharashtra Forest Service and also by appointment directly. The Proviso to Rule 2 of the 1984 Rules is unambiguous and quite clear, i.e., the period spent on training at Government Forest Colleges and other period of probation including extended period of probation, if any, “shall not be counted towards the requisite period of service.” Thus, what is envisaged is that the appointment is different from the recruitment process, which starts with the commencement of training. There can be possibilities of a candidate not completing the training satisfactorily, thereby resulting in the candidate’s removal on probation. Such probation period can also be extended to see whether a candidate improves in performance. (Hence, even if the Government Resolution dated 25.01.1990 upgraded the post of ACF from Class II to Class I, the Proviso to Rule 2 of the 1984 Rules will continue to hold valid in determining the period of service.) ”

14. Further, the similar question of law has been considered by this Court also in **CWP-19244 of 2019, titled as “Arvind and others versus State of Haryana and Another ”, decided on 05.09.2023** . The relevant paragraph of the said judgment is as under:-

“20. Further in case, any benefit is available to the petitioner(s) as per the interpretation of clarification dated 16.11.2018 as done hereinbefore, the petitioner(s) are entitled to claim the said benefit, as, clarification



which takes away the benefit as extended by the 2018 rules, cannot be made applicable upon them so as to take away vested right bestowed upon the petitioner(s) by the unamended 2018 Rules. In case of conflict between rules and clarification, the rules will prevail over the clarification for considering the claim of petitioner(s).

22. *It is a settled principle of law that once there are rules as well as instructions on the same issue and the instructions are contrary to the rules, the rules will prevail. Hence, even if, there is no challenge to the instructions/clarification dated 16.11.2018, the same cannot be given effect over and above the unamended 2018 Rules. In the present case, petitioners have got the letters from their respective Sports Association that they had played the tournament in question up to the level of quarter final, same cannot be ignored on the touch stone of clarification dated 16.11.2018 so as to oust their claim under the unamended Rules of 2018. Hence, once the petitioner(s) are able to make out their claim on the basis of documents that they have cleared a particular tournament beyond the quarter finals so as to claim appointment to group-C post under the 2018 Rules, the respondents are under an obligation to consider their claim under the unamended Rules of 2018 by ignoring the clarification dated 16.11.2018.”*



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15. Hence, the reliance which is being placed upon the instructions dated 22.07.1961, 19.07.1966 (Annexure P-1) and 21.08.1986 (Annexure P-2), which are contrary to the 1953 Act and 1972 Act cannot be given effect to, so as to give relief to the appellants herein. The said proposition of law, has rightly been appreciated by the learned Single judge, while deciding the writ petitions vide order dated 03.12.2024.

16. No other arguments have been raised.

17. Keeping in view the totality of the facts and circumstances of the present case, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

18. Accordingly, the present appeal is dismissed.

19. Pending civil miscellaneous application, if any, stands disposed of.

20. A photocopy of this order be placed on the file of connected case.

**(HARSIMRAN SINGH SETHI)
JUDGE**

**(VIKAS SURI)
JUDGE**

27.08.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No