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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision :09.01.2025

Nachhatar Kaur

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arvinder Arora, Advocate for the petitioner.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance being raised by the petitioner is that though, the Tribunal on the application filed by the petitioner under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (in short, '2007 Act') only granted the partial relief of maintenance of Rs.10,000/- per month and the said order of the Tribunal was challenged before the Appellate Authority but the District Magistrate, Ambala decided the said appeal without there being appropriate coram as provided under the 2007 Act.

2. Learned counsel for the petitioner argues that Rule-17 of the Haryana Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (hereinafter referred as '2009 Rules') states the constitution of Appellate Tribunal, which will include three members and the same is to be presided over by the District Magistrate but in the present case, the District

Magistrate himself decided the appeal without there being the two members.

3. Learned counsel for the petitioner submits that the said objection was raised before the District Magistrate, Ambala but the same has been ignored on the ground that members have not been appointed and the appeal filed by the Senior citizens needs to be decided expeditiously and hence, he decided the appeal on his own without there being coram provided under the 2007 Act.

4. Notice of motion.

5. Mr. Gaurav Jindal, Additional A.G. Haryana accepts notice on behalf of the respondent-State.

6. Learned counsel for the respondents concedes the factum that according to Rule-17 of the 2009 Rules, a Coram has been provided and the appeal can only be decided by Coram until and unless there is exception provided.

7. Learned counsel for the respondents concedes the factum that there is no exception to Rule-17 of the 2009 Rules.

8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. Once, the State has framed the rules prescribing a procedure to decide the appeal arising out of the 2007 Act by framing 2009 Rules, it is incumbent upon the Appellate authority to decide the same keeping in view Coram provided for the appellate authority. Concededly, the requisite Coram was not there while deciding the appeal vide order dated 15.06.2024

(Annexure P/6) and the District Magistrate himself decided the appeal in

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which order it has been conceded by the District Magistrate that the term of the earlier members has expired and no new member has been nominated to the appellate authority.

10. That being so, when the requisite Coram to decide the appeal was not available hence, the District Magistrate should have waited for the completion of Coram rather than deciding the appeal by ignoring Rule 17 of the 2009 Rules.

11. Keeping in view the above, order dated 15.06.2024 (Annexure P/6) is set aside and the case is remanded back to decide the appeal afresh in accordance with 2007 Act coupled with 2009 Rules framed by the State of Punjab.

Present petition is disposed of in above terms.

January 09, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No