

**CWP-6858-2024**

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

CWP-6858-2024Date of Decision : **29.04.2026****RAJ KUMAR**

.....Petitioner

VERSUS

**APPELLATE TRIBUNAL CUM DISTRICT MAGISTRATE
AMBALA AND OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. A.S.Virk, Advocate,
for the petitioner.

Mr. Bhupender Singh, Addl.AG, Haryana.

Mr. R.S.Budhwar, Advocate,
for respondent no.3.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, filed under Article 226/227 of the Constitution of India, a challenge is thrown to the order dated 19.01.2024 (Annexure P-11) passed by the learned Appellate Authority (respondent no.1), under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'Act of 2007'), whereby, the appeal filed by respondent no.3, was accepted, and the order dated 18.10.2022 (Annexure P-8), passed by the learned Maintenance Tribunal (respondent no.2), was set aside.

2. This Court vide order dated 20.02.2026, had passed the hereinabove extracted order:-



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“There is no representation on behalf of the petitioner, today in Court.

Learned State counsel informs this Court that, at the time when the impugned order dated 19.01.2024, was passed by the learned Appellate Tribunal, the earlier Tribunal constituted through a notification dated 08.12.2020, has lapsed, and, now new Tribunal has been constituted. Therefore, he seeks an adjournment to address arguments, as to whether, in absence of notified Tribunal, District Collector, can adjudicate the appeal.

Adjourned to 27.04.2026.

It is made clear that the aforesaid information shall be supplied to this Court by way an affidavit of the competent officer of the department concerned. ”

3. In deference to the aforesaid direction, an affidavit of Sh. Arpit, Joint Director, Social Justice, Empowerment, Welfare of SCs and BCs and Antyodaya (SEWA) Department, Haryana, has been filed today in Court by the learned State counsel, which is taken on record. A Copy thereof, is supplied to the counsel opposite.

4. In the affidavit (*supra*), it is specifically, submitted that as per Section 16 of the Act of 2007, and in Chapter-III of the Rules of 2009, an appeal is required to be filed before, and adjudicated by, a duly constituted Appellate Tribunal. The relevant of the affidavit is extracted hereinafter:-

“4. That Section 7 of the Act, 2007 mandates the State Government to constitute one or more Tribunals for each sub-divisions by notification in the official gazette for the purpose of adjudication and taking decision upon the order for maintenance and section 15 provides for constitution of one Appellate Tribunal for each District to hear an appeal against the order passed by the Tribunal.

5. *That Rule 3 of the Rules, 2009 provides for constitution of Maintenance Tribunal while Rule 17 provides for constitution of the Appellate Tribunal, which are extracted below:*

"3. (1) Each Tribunal shall consist of three (3) members, one of them shall be official member not below the rank of Sub-Divisional Magistrate who shall be the Chairperson. The two non official members shall



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be nominated by the Deputy Commissioner and shall be approved and notified by the State Government from amongst the following:-

(i) one person from the reputed non government organization, registered under the Societies Registration Act, 1860 (21 of 1860) in the District working for the welfare of senior citizen, and

*(ii) one person who is a social worker of repute, who has been directly engaged in welfare of senior citizen, or
a reputed advocate from the district, who has worked in the social welfare sector.*

(2) The tenure of non-official members of the Tribunal shall be three years.

(3) A non official member of the Tribunal shall be eligible for appointment for a maximum of two terms.

(4) A non-official member may resign at any times by giving one month's notice in writing.

(5) The members of the Tribunal shall be paid such travelling or meeting allowance or honorarium or remuneration as the State Government may decide from time to time by this remuneration shall not be less than Rs. 500/- per sitting.

"17. The Appellate Tribunal shall consist of three members. The members Tribunal shall be presided over by the District Magistrate of the District or any officer as may be nominated by the State Government not below the rank the District Magistrate. The non-official member shall be nominated from the following category:-

(i) a social worker or representative from Non-Governmental Organization working for the welfare of senior citizen; and

(ii) an advocate who has worked in the field of social welfare."

Accordingly, Maintenance and Appellate Tribunals have been constituting, time to time, by the State Government of Haryana by issuing gazette notification.

6. *That as regard to question of competence of District*

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Collector to adjudicate the appeal in the absence of Appellate Tribunal, it is submitted that as per provisions of Rule 17 of the Rules, 2009, the Appellate Tribunal consists of three members as prescribed therein and District Magistrate or an officer not below the rank of District Magistrate, as may be notified by the State Government, is presiding officer of such Tribunal. Further, as per procedure prescribed in section 16 of the Act, 2007 and in Chapter-III of the Rules, 2009, any appeal is required to be file before, and adjudicated by, a duly constituted Appellate Tribunal.”

5. In view of the above specific stand of the State, the impugned order dated 19.01.2024 (Annexure P-11), passed by the learned Appellate Tribunal, suffers from *coram non judice*, and it requires interference by this Court. Accordingly, the same is hereby, **set aside**. The matter is **remanded** to the learned Appellate Tribunal concerned for adjudication afresh.

6. The parties concerned, are directed to appear before the learned Maintenance Tribunal concerned on 12.05.2026 at 11.00 AM.

7. Since the appeal is of the year 2003, therefore, a further *mandamus* is passed upon the learned Appellate Tribunal, to decide the appeal, within a period of four months, from the date of receipt of a certified copy of this order, however, after affording due opportunities of hearing to all the parties concerned.

8. At this stage, this Court is of the view that the Department of Social Justice, Empowerment, Welfare of SCs and BCs and Antyodaya (SEWA) Department, Haryana, which has notified the constitution of Maintenance Tribunal, as well as, the Appellate Tribunal, is required to sensitize all the Tribunals, regarding the above.

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9. A copy of this order shall also be sent to the Director General, Social Justice, Empowerment, Welfare of SCs and BCs and Antyodaya (SEWA) Department, Haryana, so that the compliance of this order can be made by all the Tribunals throughout the State of Haryana.

10. **Disposed of** accordingly.

11. All pending application(s), if any, also stand **disposed** of accordingly.

April 29, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No