

CWP-16034-2024

-1-

112

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16034-2024
Date of Decision: 30.07.2024

Kulwinder Singh

....Petitioner

Versus

Financial Commissioner (Appeal) Punjab, Civil Secretariat,
Punjab, Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Manu Loona, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

HARSH BUNGER, J. (Oral)

1. The instant Writ Petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of Certiorari for quashing the impugned order dated 13.05.2024 (Annexure P-4) passed by respondent No.1 in ROR-593-2022.
2. Briefly, the previous lambardar (General category) namely Sh. Sher Singh of Village Shikarpur @ Kawanwali expired on 01.10.2018 and accordingly, proceedings were initiated for filling up the aforesaid vacancy. In pursuance of the proclamation for filling up the vacancy, 14 candidates (including the petitioner and respondent No.4-Jaspal Singh), applied for the post. The antecedents of the candidates were got verified

CWP-16034-2024

-2-

from the local police. Before the Tehsildar, Fazilka, 6 candidates withdrew their candidature in favour of respondent No.4 (Jaspal Singh), accordingly the Tehsildar, Fazilka recommended the name of Jaspal Singh for appointment to the vacant post. Similarly, Sub Divisional Magistrate, Fazilka also recommended the name of Jaspal Singh for appointment as lambardar and the case file was forwarded to the learned District Collector, Fazilka.

3. Learned Collector, Fazilka, upon considering the relative merits and de merits of the candidates, appointed respondent No.4-Jaspal Singh as the *lambardar* of Village Shikarpur @ Kawanwali, vide its order dated 24.03.2021 (Annexure P-1).

4. Feeling aggrieved against the aforesaid order dated 24.03.2021 (Annexure P-1), the present petitioner preferred an appeal before the learned Commissioner, Ferozepur. Similarly, one another candidate namely Satnam Singh also preferred an appeal against the order dated 24.03.2021 (Annexure P-1). Both the aforesaid appeals came to be decided by the learned Commissioner, Ferozepur vide a common order dated 25.01.2023 (Annexure P-3), whereby the matter was remanded to the District Collector, Fazilka as learned Commissioner was of the view that certificate of B.A. (Bachelor of Arts) of respondent No.4 did not appear to be genuine. The operative part of the order passed by the learned Commissioner reads as under:-

“Accordingly, this matter is remanded to District Collector, Fazilka for re-examination of above facts and if it is found that the educational certificate of B.A. Of respondent-Jaspal Singh is not genuine, then he be removed from the post of lambardar by appointing a

suitable candidate for the post of lambardar from other eligible candidates. However, it is made clear that if the educational certificate of respondent-Jaspal Singh is held to be genuine, then he will continue to do his duties as lambardar.... ”

5. Feeling aggrieved against the order dated 25.01.2023 (Annexure P-3) passed by learned Commissioner, Ferozepur, the respondent No.4-Jaspal Singh preferred a Revision Petition (ROR-593-2022) before the learned Financial Commissioner (Appeals) Punjab, who vide its order dated 13.05.2024 (Annexure P-4), set aside the order passed by the learned Commissioner and restored the order dated 24.03.2021 (Annexure P-1) passed by the learned District Collector, Fazilka appointing respondent No.4-Jaspal Singh as the *lambardar*.

6. In the aforementioned circumstances, the petitioner has filed the instant Writ Petition before this Court for the reliefs as noticed above.

7. On 15.07.2024, the contention of learned counsel for the petitioner was recorded that the learned Financial Commissioner has passed the impugned order by considering respondent No.4-Jaspal Singh as 12th pass whereas, according to the petitioner, respondent No.4 has not even studied upto 12th class. Accordingly, learned State counsel was asked to get instructions as to whether there is any certificate of 10+2 of respondent No.4 available on the record pertaining to the *lambardari* in question. Today (30.07.2024), learned State counsel has stated that 10+2 certificate of respondent No.4-Jaspal Singh is available on the record.

8. Learned counsel for the petitioner submits that the impugned order dated 13.05.2024 (Annexure P-4), passed by learned Financial Commissioner is wrong, illegal and perverse, therefore unsustainable in law.

CWP-16034-2024

-4-

It is submitted that respondent No.4 had submitted a false document as regards his educational qualification and the learned Commissioner had remanded the case to the District Collector, Fazilka to verify the fact regarding educational certificate of respondent No.4. It is submitted that the learned Collector has not taken into consideration the relevant factors for appointment of *lambardar*, as envisaged under Rule 15 of the Punjab Land Revenue Rules. It is submitted that the petitioner is more meritorious than the respondent No.4 therefore, he deserves to be appointed as *lambardar*. Accordingly, it is prayed that the impugned orders be set aside.

9. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance.

10. Here, it would be apposite to state the relative merits of the candidates, which can be summed up as under :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner</i> <i>(Kulwinder Singh)</i>	<i>Resp. No.4</i> <i>(Jaspal Singh)</i>
<i>1</i>	<i>Age</i>	<i>24 years</i>	<i>30 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>12th pass</i>	<i>12th pass</i> <i>(as per Financial Commissioner order)</i>
<i>3</i>	<i>Land holding/s</i>	<i>No land in his name</i>	<i>2 Acres 4 kanal</i>
<i>4</i>	<i>Recommended by</i>	<i>---</i>	<i>Tehsildar,Fazilka and</i> <i>Sub Divisional Magistrate, Fazilka</i>

10.1 A bare perusal of the above chart would show that there is not much difference in the age of petitioner and respondent No.4 and both are equally educated, however, respondent No.4 owns land in his own name and his name was recommended by Tehsildar as well as Sub Divisional Magistrate, Fazilka.

11. Although, the recommendation made by the lower Revenue Authorities may not be binding on the District Collector, however, due

CWP-16034-2024

-5-

consideration is to be accorded to such recommendation as they are in a position to assess the suitability of a candidate and such recommendation would have some persuasive value. In this regard, reference can be made to the judgment(s) in *Atma Singh vs. The Financial Commissioner, Revenue, Punjab, 2016 (1) LAR 592* and in case of *Hakam Singh vs. Financial Commissioner (Revenue), Punjab, 2016 (4) RCR (Civil) 335*.

12. Furthermore, in the case of *Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273*; it was held by the Division Bench of this Court that choice of the District Collector cannot be lightly set aside, even if two views are possible, unless there is any patent illegality or perversity therein. It is also well established that the learned Collector is the main authority for appointment of the *lambardar*. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray but also personally interacts with them. Thus, the subjective satisfaction of the Collector, should have been respected.

13. It is also observed that while remanding the case, the learned Commissioner has not set aside the Collector's order dated 24.03.2021 (Annexure P-1), therefore in terms of judgment rendered by Hon'ble Supreme Court in *Khazan Singh v. Shamsher Singh, 1998(3) R.C.R. (Civil) 634*, order dated 24.03.2021 (Annexure P-1), passed by the Collector has become final as the same was not set aside by the Commissioner while remanding the matter.

14. Considering the totality of circumstances, there is no scope for any interference in the order dated 24.03.2021 (Annexure P-1) passed by learned Collector, Fazilka appointing respondent No.4 as the *lambardar* of Village Shikarpur @ Kawanwali, Tehsil and District Fazilka; which has been

CWP-16034-2024

-6-

restored by learned Financial Commissioner, Punjab vide order dated 13.05.2024 (Annexure P-4).

15. In view of the afore-mentioned facts and circumstances and also the settled law, the present petition is dismissed being devoid of any merit.

16. All pending applications (if any) shall also stand closed.

30.07.2024
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No