

CWP-108-2015

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

CWP-108-2015

Date of Decision: 21.09.2015

Jaswinder Singh

... Petitioner(s)

Versus

Financial Commissioner, Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Abhishek Singla, Advocate,
for the petitioner.

Mr. S.S.Chandumajra, Addl. A. G. Punjab.

Mr. Vikas Mehsempuri, Advocate,
for respondent No.4.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the orders dated 16.07.2013 (Annexure P-1) passed by respondent No.3-District Collector, Barnala whereby respondent No.4-Satnam Singh has been appointed as Lambardar of village Hardaspura and the orders dated 28.01.2014 (Annexure P-2) and 24.09.2014 (Annexure P-3) passed by respondent No.2-Divisional Commissioner, Patiala Division, Patiala and respondent No.1-Financial Commissioner, Punjab, respectively whereby appeal and revision filed by the petitioner against the order dated 16.07.2013 have

CWP-108-2015

been dismissed.

Brief facts of the case are to the effect that on account of death of Gurdev Singh, Lambardar of village Hardaspura, Tehsil and District Barnala, post of Lambardar fell vacant. Respondent No.3-District Collector, Barnala directed the subordinate authority i.e. Assistant Collector-IInd Grade (Naib Tehsildar) Mehal Kalan for making proclamation in village Hardaspura, Tehsil and District Barnala for inviting applications for the post of Lambardar. Last date for inviting applications was fixed as 18.12.2012. In pursuance of proclamation, four applications were received within stipulated time from persons namely (1) Satnam Singh son of Raj Singh, (2) Gurpreet Singh son of Jeet Singh, (3) Kudeep Singh son of Bhag Singh and (4) Kuldeep Singh son of Buta Singh, residents of village Hardaspura, however, application of petitioner-Jaswinder Singh son of Karnail Singh was received on 03.01.2013, after last date for filing application. In pursuance of the recommendations made by the Assistant Collector-IIInd Grade (Naib Tehsildar), Mehalkalan and Assistant Collector-Ist Grade (Tehsildar), Barnala in favour of respondent No.4-Satnam Singh, respondent No.3-District Collector, Barnala came to the conclusion that respondent No.4-Satnam Singh is the most suitable candidate and thereby appointed him as Lambardar. Feeling aggrieved, the petitioner filed appeal before respondent No.2-Divisional Commissioner, Patiala Division, Patiala which has been dismissed vide impugned order dated 28.01.2014 (Annexure P-2). Against that, the petitioner filed revision before the Financial Commissioner, Punjab which has also been dismissed vide

CWP-108-2015

impugned order dated 24.09.2014 (Annexure P-3). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contends that the petitioner is more meritorious than respondent No.4 and reference has been made to para no.3 of petition where comparative merit chart of petitioner and respondent No.4 has been shown which reads as under:

Factors	Petitioner-Jaswinder Singh	Respondent No.4-Satnam Singh
Age	42 years	30 years
Land Holding	14B-9B	9B-10B
Qualification	Matric	Matric
Hereditary Claim/Experience on that basis	Held to be ultra vires. No such aspect is relevant even worth note of.	Deceased Lambardar was his maternal grandfather
Services rendered to the State	1. Member Panchayat from 2008 to 2013	NIL
Influence among public, character and ability	1. Remained Member Panchayat from 2008 to 2013. 2. Serving as President etc. in various welfare clubs such as Beant Singh Sports and Welfare Club, Hardaspura Dharam Dass Samaj Bhalai Committee etc. 3. Blood Donor	NIL
Strength and support from village community for selection	Various respectable supported his candidature such as Balwinder Singh Sarpanch, Gurdev Singh Panch, Nachattar Singh Lambardar, Saander Singh Sabka Panch etc.	Several respectable including Sarpanch and Panch etc. supported his candidature also.

CWP-108-2015

Factors	Petitioner-Jaswinder Singh	Respondent No.4-Satnam Singh
Services rendered in national movements	NIL	NIL
Adverse factors	Nothing adverse in his candidature	Instituted false complaint against petitioner which was found false by DSP vide report Annexure P-4. It is unfair conduct of respondent No.4.

Learned counsel for the petitioner refers to Punjab Land Revenue (Lambardari) Rules, 1908 and contends that hereditary claim cannot be a relevant factor for appointing a person as Lambardar, although the deceased Lambardar was the maternal grand-father of respondent No.4. Learned counsel contends that the petitioner is more meritorious than respondent No.4 in all aspects. The Divisional Commissioner and Financial Commissioner have passed the impugned orders without recording any reasons and the same need to be set aside and the matter be remanded to the authority concerned for considering the matter afresh. In support of his contentions, learned counsel relies upon ***Karnail Singh vs. State of Haryana etc.*** 1974 PLR 67, ***Rattan Singh vs. Financial Commissioner, Haryana and others*** 2014(4) R.C.R. (Civil) 414, ***Sharif vs. Financial Commissioner, Haryana and others*** 2014 (3) R.C.R.(Civil) 431, ***Mahabir Prasad Santosh Kumar vs. State of U.P and others*** 1970 AIR (SC) 1302, ***M/s Kranti Associates Pvt. Ltd. and another vs. Sh. Masood Ahed Khan and others*** 2010(9) SCC 496, ***Cyril Lasrado (dead) by LRs and others Juliana Maria Lasrado and Anr.*** 2004(3) R.C.R.(Civil) 782, ***Sardool Singh vs. The Financial***

CWP-108-2015

Commissioner, Punjab 2001(1) PLR 443, ***Satpal vs. State of Punjab and others*** 2013 (3) R.C.R.(Civil) 251 and ***Balwinder Singh vs. Financial Commissioner and others*** 2013 (4) R.C.R.(Civil) 941.

Per contra, learned State counsel and learned counsel for respondent No.4 vehemently contend that the petitioner has no right to agitate before this Court. Even he was not having any right to be considered before the Collector because he had applied for the post at a belated stage after the cut off date fixed i.e. 18.12.2012, by the authorities, but application was submitted by the petitioner on 03.01.2013 before the Sub Divisional Magistrate who too was not competent for condoning the delay in filing the application for the aforesaid post. They further contend that even on merit, respondent No.4 is more meritorious than the petitioner.

I have given my thoughtful consideration to the rival contentions of learned counsel for the parties.

I am not required to go into further details of comparative merit of the petitioner and respondent No.4. The sole ground for disposal of present petition is that the petitioner has not submitted his application well in time, as such his application could not have been considered and, therefore, comparative merit of petitioner and respondent No.4 is not required to be dealt with by this Court.

In ***Chennai Metropolitan Water Supply and Sewerage Board and others vs. T.T. Murali Babu***, (2014) 4 SCC 108, it has been held as under:

“16. *Thus, the doctrine of delay and laches*

CWP-108-2015

should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some

CWP-108-2015

kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

The petitioner had submitted application on 03.01.2013 to S.D.O. (C), who had no authority to condone the delay after the cut off date stipulated in the proclamation i.e. 18.12.2012. The application of the petitioner would not have been entertained for consideration as it was beyond stipulated date fixed for submission of application. The petitioner has no right to challenge the appointment of respondent No.4 as Lambardar as he would be deemed to be not a contesting applicant. In view of this, the instant petition is devoid of merit.

Dismissed.

No order as to costs.

21.09.2015
parveen kumar

(Paramjeet Singh)
Judge