

**CWP-17476-2012**

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

**CWP-17476-2012**

**Date of Decision: 18.09.2015**

Lakhwinder Singh

... Petitioner(s)

Versus

State of Haryana 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: Ms. Priyanka Sud, Advocate,  
for the petitioner.

Mr. Rajneesh Chadwal, DAG, Haryana.

Mr. Harpreet S. Sandhu, Advocate,  
for respondent No.4.

**Paramjeet Singh, J.**

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside order dated 20.07.2011 (Annexure P-2) passed by the Commissioner, Ambala Division, Ambala whereby order dated 22.02.2011 (Annexure P-3) appointing the petitioner as Lambardar has been set aside and the order dated 28.03.2012 (Annexure P-1) passed by the Financial Commissioner, Haryana whereby revision filed by the petitioner against impugned the order dated 20.07.2011 has been dismissed.

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Brief facts of the case are that to fill up the vacancy caused on account of resignation of Sadhu Ram Lambardar (Backward Class), of village Mohanpur, Tehsil Pehowa, District Kurukshetra, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, interested candidates submitted their applications and ultimately the petitioner and respondent No.4 were left in fray. Tehsildar, Pehowa recommended the name of the petitioner, however, SDO (C ), Pehowa recommended the name of respondent No.4. The Collector after appreciating the comparative merit of the candidates found petitioner-Lakhwinder Singh to be fit and suitable candidate and vide order dated 22.02.2011 (Annexure P-3) appointed him as Lambardar. Against that, respondent No.4 preferred an appeal before the Commissioner, Ambala Division, Ambala which has been allowed vide impugned order dated 20.07.2011 (Annexure P-2) and order dated 22.02.2011 (Annexure P-3) passed by the Collector appointing the petitioner as Lambardar has been set aside. Against that, the petitioner also preferred revision before the Financial Commissioner which has also been dismissed vide impugned order dated 28.03.2012 (Annexure P-1). Hence, instant writ petition.

In pursuance of notice of motion, respondent No.4 filed written statement with the averments that respondent No.4 is the son of Ex-Lambardar i.e. Sadhu Ram on whose resignation, the post became vacant and respondent No.4 is acquainted with the duties of Lambardar.

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The Collector appointed the petitioner as Lambardar without considering the fact that SDO (C ) had recommended the name of respondent No.4 and petitioner has faced the criminal trial.

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

Learned counsel for the petitioner contended that Tehsildar, Pehowa recommended the name of the petitioner for the post of Lambardar and the Collector after considering the comparative merits appointed the petitioner as Lambardar. He further contended that the petitioner is matriculate, an ex-serviceman and 75 persons have given affidavits in favour of the petitioner. Respondent No.4 being Sarpanch, should not be considered for the post of Lambardar. The impugned orders passed by respondent Nos.1 and 2 are not sustainable in the eyes of law and are liable to be set aside.

Per contra, learned State counsel and learned counsel for respondent No.4 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned orders. They contended that respondent No.4 is the Sarpanch, which is not a disqualification rather an extra qualification to be appointed as a Lambardar. They further contended that Sarpanch is a tenure post, whereas Lambardar continues for sufficient long time till death or disability or dismissal of the incumbent. The Collector appointed the petitioner as Lambardar merely on the ground that respondent No.4 is the Sarpanch of the village, rather claim of respondent No.4, being Sarpanch, for appointment to the

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post of Lambardar cannot be discarded. The order of the Collector has rightly been set aside by respondent No.2-Divisional Commissioner, Ambala. The father of respondent No.4 was the Lambardar on whose resignation the vacancy was caused.

I have considered the rival contentions of learned counsel for the parties.

It is settled law that there should be no interference with the choice made by the Collector in the matter of appointment of Lambardar even if two views are possible. It is only the prerogative of the Collector to compare the merits of the candidates for appointment to the post of Lambardar. The order of Collector can only be set aside if the order suffers from illegality or perversity. The Collector rejected the claim of respondent No.4 on the ground that he is also holding the post of Sarpanch. However, in view of the law laid down by a Division Bench of this Court in *Karamjit Singh vs. Financial Commissioner Appeal-II, Punjab, Chandigarh and others*, 2012 (1) L.A.R. 651, for appointment to the post of Lambardar no adverse inference can be drawn against the person merely that he is holding the post of Sarpanch. Rather in view of Rule 15(d)(e) of the Punjab Land Revenue Rules personal influence, character, ability, freedom from indebtedness and strength and importance of the community from which selection of a Lambardar is to be made is also required to be considered for appointment. Once a person is appointed as a Sarpanch, it means that majority of the residents of the village are in his favour and that he has personal influence over

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the residents of the village. It cannot be taken as a negative ground. In the present case, Collector has wrongly taken it as an adverse circumstance against respondent No.4. Respondent Nos.1 and 2 have categorically held that respondent No.4 is more meritorious than the petitioner and is a better candidate for the post of Lambardar with the observations that respondent No.4 is younger than the petitioner, son of previous Lambardar possessed property and has held responsible positions.

In view of above, I do not find any illegality or perversity in the impugned orders.

Dismissed.

Costs made easy.

**18.09.2015**  
parveen kumar

**(Paramjeet Singh)**  
**Judge**