

CWP No.13399 of 2015

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

**CWP No.13399 of 2015
Date of decision:10.07.2015**

Vijay Kumar

...Petitioner

Versus

Financial Commissioner
(Animal Husbandry-I), Punjab & ors.

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.S.Chauhan, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The post of Lambardar of village Muradpur fell vacant on 30.01.2005 on account of the death of Lachhman Singh Lambardar. In order to fill up the said vacant post, the Naib Tehsildar, Mukerian, initiated the process by making a proclamation in the village and in response thereto, 12 persons submitted their applications including respondent no.4. The Naib Tehsildar, Mukerian, submitted the case to the Tehsildar, Mukerian on 24.05.2005, who recommended name of the petitioner for appointment, but the Sub Divisional Magistrate recommended name of respondent no.4 on 24.05.2005 to the Collector, who vide his order dated 24.08.2005 appointed him as Lambardar of the village. The appeal filed by the petitioner was dismissed by the Commissioner, Jalandhar Division, Jalandhar on 03.07.2006, against which he filed a revision before the Financial Commissioner, who vide his order dated 24.12.2007 appointed the

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petitioner as Lambardar of the village and the Sanad was issued to him on 08.02.2008. Respondent no.4 filed a Review Application No.9/2008 before the Financial Commissioner which was also dismissed on 22.10.2008. Respondent no.4 then filed CWP No.10143 of 2009 which was dismissed by the learned Singe Judge on 22.03.2011 against which he filed LPA No.342 of 2012, which was allowed and the matter was remanded back to the Financial Commissioner to decide it again. The Financial Commissioner this time, vide his order dated 29.08.2014, appointed respondent no.4 as Lambardar.

Counsel for the petitioner has argued that respondent no.4 was involved in a criminal case bearing FIR No.153 dated 13.12.1999, under Sections 465, 468 and 471 of the IPC, registered at Police Station Mukerian, in which he was convicted by the trial Court on 12.01.2006 but ultimately acquitted by the Appellate Authority on 21.02.2009. The Financial Commissioner, relying upon a Division Bench judgment of this Court in the case of **Sardool Singh vs. The Financial Commissioner, Punjab**, 2001(1) R.C.R. (Civil) 448, allowed the revision on the ground that at the relevant time when respondent no.4 was to be considered for the office of the Lambardar, there was only allegation against him and ultimately he has been acquitted.

Counsel for the petitioner has submitted that in the cases of **Jog Dhian vs. Financial Commissioner, Haryana and others**, 2005(3) PLR 213 and **Gurdev Singh vs. Financial Commissioner (Appeals-II), Pb., Chandigarh and others**, 2009(4) R.C.R. (Civil) 808, this Court has held

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that involvement in a criminal case is a stigma which cannot be completely washed off by acquittal, therefore, such a person should not be considered for the post of Lambardar.

I have heard learned counsel for the petitioner and examined the available record.

There is no dispute that FIR No.153 dated 13.12.1999 was registered against respondent no.4, but there was no conviction till he was appointed as Lambardar by the Collector on 24.08.2005 as the order of conviction was passed on 12.01.2006 vide which he was sentenced for one year with a fine of ₹5,000/-, but ultimately the said conviction was set aside in appeal.

In **Sardool Singh's case (supra)**, it has been held that at the relevant time when *inter-se* merits of the candidates are to be considered, there was mere allegations against the appointed candidate culminating into an FIR from which he was ultimately absolved when the order of acquittal was passed and the said registration of the case would not come in his way for being considered for the office of Lambardar, whereas in **Jog Dhian's case (supra)**, the candidate was involved in a murder case and on that account it was observed that such a person, who might have been acquitted, would not command respect of the public, which is not the situation in the present case. Thus, I do not agree with the petitioner especially when the decision in **Sardool Singh's case (supra)**, which is also rendered by the Division Bench of this Court, has not been brought to the notice of the Division Bench who had delivered the judgment in **Jog Dhian's case**

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(supra).

As regards the age of respondent no.4, once the Collector had made a choice after comparing *inter-se* merits of the parties, I do not find any reason to interfere as it is well settled that interference in the matter of appointment of Lambardar would only be called for in case of perversity in the order of the Collector.

In view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

July 10, 2015
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(Rakesh Kumar Jain)
Judge