

CWP No.14620 of 2014

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

CWP No.14620 of 2014
Date of decision: 18.08.2015

Raj Kumar

....Petitioner

Versus

Financial Commissioner (Animal Husbandry), Punjab and another
....Respondents

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. Sherry K. Singla, Advocate, for the petitioner.
Mr. S.S. Chandumajra, Addl. A.G., Punjab.
Mr. Parminder Kanwar, Advocate, for respondent No.2.

PARAMJEET SINGH, J. (ORAL)

Written statement on behalf of respondent No.2, filed in Court today, is taken on record.

Instant civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 25.04.2014 (Annexure P-4) passed by respondent No.1 – Financial Commissioner (Animal Husbandry), Punjab whereby order dated 28.08.2008 (Annexure P-2) passed by Commissioner, Jalandhar Division, Jalandhar and order dated 10.06.2008 (Annexure P-1) passed by District Collector, Hoshiarpur, whereby petitioner was appointed as Lambardar of the village, have been set aside.

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Brief facts of the case are that to fill up the vacancy of S.C. Lambardar caused on account of death of Mota Singh, Lambardar of village Bhungrani, Tehsil and District Hoshiarpur, applications were invited from interested persons by making publication/proclamation in the village after obtaining necessary sanction from the Collector. After completing formalities, matter came up for consideration before the Collector. The Collector after appreciating the comparative merit of the candidates found Raj Kumar – petitioner to be fit and suitable candidate and order dated 10.06.2008 (Annexure P-8) appointed him as Lambardar of the village. Aggrieved against the order of the Collector, respondent No.2 – Kashmir Kaur filed an appeal before the Commissioner, which was dismissed vide order dated 28.08.2008 (Annexure P-2). Against the orders passed by District Collector and Commissioner, respondent No.2 preferred revision petition before the Financial Commissioner. Financial Commissioner vide impugned order dated 25.04.2014 (Annexure P-4) has recorded the following finding: -

“I have heard the counsel for the petitioner and considered the argument advanced by the counsel for the respondent as well as gone through the record available on file. Petitioner is less educated as 5th pass. Respondent Raj Kumar also less educated as 8th class and running shop and sarpach of the village. He is not available to the villagers for full time for their daily work. In my opinion both the candidate are not fit for the post of lambardari as both are less educated and not available full time to the villagers for their daily work. In view of the above facts and legal position, I set aside the

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order dated 3.8.2009 as well as 23.8.2008 of the Commissioner, Jalandhar Division, Jalandhar and order dated 10.6.2008 of District Collector, Hoshiarpur and remanded the case back to District Collector, Hoshiarpur to pass afresh order after inviting fresh applications from the villagers.”

Hence, instant writ petition.

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

Learned counsel for the petitioner contended that there is no qualification prescribed for appointment of Lambardar. Having a shop in the village cannot be construed as a disqualification for the post of Lambardar. Learned counsel further contended that Financial Commissioner has wrongly recorded that petitioner was a Sarpanch whereas he was only a member of the Panchayat. Learned counsel for the petitioner contended that choice of the Collector cannot be lightly set aside by the higher authorities. Without assigning valid reasons orders passed by the Collector and the Commissioners, whereby petitioner was appointed as Lambardar of the village, have been set aside and selection process has been ordered to be started afresh. In support of his contentions, learned counsel for the petitioner has relied upon the judgments of this Court in ***Jagjit Singh v. Financial Commissioner, Punjab and others***, 2012(2) PLR 492, ***Balwinder Singh v. Financial Commissioner/Appeals-II, Punjab and others***, 2011(3) R.C.R.(Civil) 962 and ***LPA No.1372 of 2009*** titled ***Bishan Dass v. Financial***

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Commissioner, Appeals-II, Punjab and others decided on 01.07.2010.

I have considered the contentions raised by learned counsel for the parties.

Admittedly, there is no specific qualification prescribed under the rules for appointment of Lambardar. In such circumstances, selection cannot be set aside. Otherwise also, running a shop in the village is not a disqualification as held by this Court in ***Balwinder Singh*** (supra).

Keeping in view the facts and circumstances of the case, impugned order dated 25.04.2014 (Annexure P-4) passed by respondent No.1 – Financial Commissioner (Animal Husbandry), Punjab, is set aside. He is directed to decide the revision petition on merits afresh.

Parties through their counsel are directed to appear before the Financial Commissioner on 18.9.2015.

Disposed of.

August 18, 2015
R.S.

(Paramjeet Singh)
Judge