

CWP No 17211-2015

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

CWP No.17211-2015

Date of Decision: 19.08.2015

Roshan Singh

... Petitioner(s)

Versus

State of 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. Nand Lal Sammi, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 17.11.2009 (Annexure P-3) passed by respondent No.4-District Collector, Ludhiana, appointing respondent No.5-Harbhajan Singh as Lambardar, order dated 14.06.2011 (Annexure P-4) passed by Commissioner, Patiala Division, Patiala and order dated 06.05.2015 passed by respondent No.2-Financial Commissioner, Punjab whereby appeal and revision, respectively, filed by the petitioner have been dismissed.

Brief facts of the case are that to fill up the vacancy caused on account of death of Harbans Singh, Lambardar of village Chuharwal,

CWP No 17211-2015

Tehsil Ludhiana (East), District Ludhiana, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, 5 candidates submitted their applications. The Collector after appreciating the comparative merit of the candidates found respondent no.5-Harbhajan Singh to be fit and suitable candidate vide impugned order dated 17.11.2009 (Annexure P-3). The petitioner filed an appeal before the Commissioner, Patiala Division, Patiala which was dismissed vide impugned order dated 14.06.2011. Being dissatisfied, the petitioner filed revision petition before the Financial Commissioner, Punjab which was dismissed vide impugned order dated 06.05.2015. Hence, instant writ petition.

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

Learned counsel for the petitioner has contended that the impugned orders passed by respondent Nos.2 to 4, respectively, are illegal and perverse. The petitioner is more meritorious than respondent No.5. Learned counsel further contends that father of the petitioner was Lambardar, therefore, the petitioner has a hereditary claim also.

I have considered the contentions of learned counsel for the petitioner.

A perusal of the record shows that all the authorities have recorded concurrent findings. The District Collector after appreciating the comparative merit, specifically the qualifications of the petitioner

CWP No 17211-2015

and respondent No.5 and their availability in village, found respondent no.5-Harbhajan Singh to be fit and suitable candidate for the post of Lambardar and appointed him as such. Moreover, respondent No.5 was appointed as Lambardar vide impugned order dated 17.11.2009 and appeal filed by the petitioner has been dismissed vide impugned order dated 14.06.2011. It is pertinent to mention that being dissatisfied with the order dated 14.06.2011, the petitioner preferred revision before the Financial Commissioner, Punjab, on 13.02.2015 i.e. after a period of more than four years. The revision was dismissed on account of inordinate delay in filing the revision petition. Respondent No.5 has been performing his duty as Lambardar since long.

It is a settled principle of law that the choice of the Collector cannot be lightly set aside. It can only be set aside if there is perversity or illegality in the impugned order of the Collector. Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order passed by the District Collector. The finding of the District Collector has been affirmed by the Commissioner as well as Financial Commissioner.

In view of law laid down by Hon'ble the Supreme Court of India in the case of *Mahavir Singh Vs. Khiali Ram & others*, 2009(3) SCC 439, *Lila Ram Vs. Asa Ram*, 1995 Lahore Law Times 29 followed by Division Bench of this Court in the case of *Phool Kumar Vs. State of Haryana and others*, 2010(2) RCR (Civil) 819, the choice of the District Collector cannot be lightly set aside.

CWP No 17211-2015

In ***Mahavir Singh's*** case (supra) the Hon'ble Supreme Court of India has observed 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. There are concurrent findings recorded by the revenue authorities.

In view of above discussion, the present writ petition fails.

Dismissed in limine.

No order as to costs.

19.08.2015
parveen kumar

(Paramjeet Singh)
Judge