

CWP No.18599 of 2015

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

CWP No.18599 of 2015
Date of decision: 04.09.2015

Mohinder Singh

....Petitioner

Versus

State of Punjab and others

....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. D.N. Ganeriwala, Advocate, for the petitioner.

PARAMJEET SINGH, J. (ORAL)

Instant civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 20.12.2012 (Annexure P-1) passed by District Collector, Bathinda, appointing respondent No.5 – Gurdeep Singh as Lambardar of Village Bangi Ruldu, Tehsil Talwandi Sabo, order dated 21.08.2013 (Annexure P-2) passed by Commissioner, Faridkot Division, Faridkot, and order dated 05.05.2015 (Annexure P-3) passed by Financial Commissioner, Revenue, Punjab, whereby appeal and revision petition filed by the petitioner have been dismissed, respectively.

Brief facts of the case are that to fill up the vacancy caused on account of death of Balwant Singh, Lambardar of Village Bangi Ruldu,

CWP No.18599 of 2015

Tehsil Talwandi Sabo, 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 Gurdeep Singh – respondent No.5 to be fit and suitable candidate and vide impugned order dated 20.12.2012 (Annexure P-1) appointed him as Lambardar of the Village. Petitioner – Mohinder Singh filed an appeal before the Commissioner. The Commissioner vide order dated 21.08.2013 (Annexure P-2) dismissed the appeal. Petitioner further filed revision before the Financial Commissioner, which has also been dismissed vide order dated 08.05.2015 (Annexure P-3). Hence, instant writ petition.

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

Learned counsel for the petitioner contends that respondent No.5 was involved in case FIR No.139 dated 21.11.2012 registered under Sections 452, 324, 323, 34 IPC. Respondent No.5 was not acquitted in the case case, however, the same was compromised between the parties. Petitioner is having clean record, therefore, preference should have been given to the petitioner. Learned counsel for the petitioner relies upon the Division Bench judgment of this Court in ***Ranjit Singh v. Financial Commissioner and another, Manu/PH/0568/2009***. Learned counsel for the petitioner contends that

CWP No.18599 of 2015

petitioner is the son of deceased Lambardar. Petitioner has experience of the post of Lambardar as he remained *sarbrah* Lambardar for one and half years. Therefore, petitioner is more suitable candidate for the post of Lambardar.

So far as contention of the learned counsel for the petitioner that a case was registered against respondent No.5 is concerned, same is not tenable as he has been acquitted and it cannot be treated as a stigma against respondent No.5. So has been held by a Division of this Court in ***Gurbachan Singh v. Financial Commissioner (Appeal-I), Punjab, 2001(4) R.C.R.(Civil) 22.***

So far as contention of the learned counsel for the petitioner that petitioner is having experience of the post of Lambardar is concerned, it cannot be accepted as respondent No.5 is a graduate and petitioner is sixth pass. Lambardar has to sign many papers, therefore, to prevent the frauds a qualified person who can read the papers correctly and diligently should be given preference. Thus, respondent No.5 has rightly been appointed as Lambardar.

A perusal of the record shows that all the authorities have recorded concurrent findings. The District Collector after appreciating the comparative merits found respondent No.5 – Gurdeep Singh to be fit and suitable candidate and appointed him as such. 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

CWP No.18599 of 2015

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.

In *Mahavir Singh's* case (supra) the 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.

September 04, 2015
R.S.

(Paramjeet Singh)
Judge