

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 20156 of 2015

Date of Decision: September 22, 2015

Hari Chand

... Petitioner

Versus

Financial Commissioner (Revenue), Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Baltej Singh Sidhu, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing order dated 09.11.2011 (Annexure P/2) passed by respondent no.3 – District Collector, Fazilka, appointing respondent no.4 – Jai Chand son of Sh. Wasawa Ram as Lambardar of Village Jand Wala Meera Sangla, District Fazilka, order dated 11.09.2012 (Annexure P/3) passed by respondent no.2 – Commissioner, Ferozepur and order 05.05.2015 (Annexure P/6) passed by respondent no.1 – Financial Commissioner (Revenue) Punjab whereby appeal and revision filed by

the petitioner have been dismissed.

Brief facts of the case are that a new post of Lambardar for general category of Village Jand Wala Meera Sangla, District Fazilka was created and the petitioner was appointed as Lambardar by the District Collector vide order dated 11.10.2005. Against that order, appeal was preferred by respondent no.4 before the Commissioner and the same was dismissed vide order dated 30.10.2007. However, in revision, the Financial Commissioner vide order dated 27.01.2009 directed to call fresh applications. Accordingly, fresh applications were invited. The Collector, after appreciating the comparative merit of the candidates found Jai Chand - respondent no.4 to be fit and suitable candidate and vide order dated 09.11.2011 (Annexure P/2) appointed him as Lambardar of the Village. Against the order (Annexure P/2), petitioner preferred an appeal before the Commissioner. The Commissioner, Ferozepur Division, Ferozepur vide order dated 11.09.2012 (Annexure P/3) dismissed the appeal. Thereafter, petitioner preferred a R.O.R. before the Financial Commissioner, which has also been dismissed vide order dated 14.01.2014 (Annexure P/4) for lack of jurisdiction to hear the same. Thereafter, petitioner filed C.W.P. No. 21477 of 2014 before this Court. This Court vide order dated 09.02.2015 (Annexure P/5), set aside the order (Annexure P/4) passed by Financial Commissioner and directed the Financial Commissioner to decide the matter afresh on merit in

accordance with law. The Financial Commissioner, after considering the comparative merit of the candidates, dismissed the R.O.R. filed by the petitioner vide order dated 05.05.2015 (Annexure P/6) with the following observations:-

“4. Respondent's arguments are that he was more eligible on merits, as discussed by the Collector in his detailed order. Specifically he owns more land, 13 acres compared to petitioner's 11 acres. He denies any default in paying electricity bills. As regards BPL card it was never issued. His name appeared in a list and on coming to know he applied for rectification.

5. I have perused the impugned order which upholds the Collector's order on the ground that it does not contain any perversity or illegality that would justify interference by the revisionary authority. I find that the facts have been fully discussed and appraised by the Collector, including the issues regarding BPL card, default of bill, and qualifications of candidates. As such I agree with the Commissioner's findings and dismiss this petition.”

Hence, instant writ petition.

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

Learned counsel for the petitioner vehemently contended that respondent no.4 has fraudulently obtained a BPL card and remains

Officer, Khurian Sarvar and has made reference to Annexure P/7. Respondent no.4 is not a truthful person. Learned counsel further contended that respondent no.4 is also defaulter of Electricity Department as well as of the Co-operative Societies. Learned counsel further contended that petitioner is 10th pass, but no document has been placed on record. Learned counsel relies upon a Division Bench judgment of this Court in *Man Singh vs. Financial Commissioner, Haryana, 2000(4) R.C.R. (Civil) 388.*

I have considered the contentions raised by learned counsel for the petitioner and perused the record.

The finding recorded by the Collector is to the effect that petitioner is matriculate and owns 13 acres of land. So far as the allegation that respondent no.4 has obtained a BPL card is concerned, the finding has also been recorded by the authorities that he never got the BPL Card. So far as the default of Electricity Department and Co-operative Societies is concerned, applications for appointment of Lambardar were invited in 2005 and the defaults are subsequent. Some times such defaults happen due to one reason or the other and not always intentional. Except the stray incident, nothing is shown that the respondent is habitual of such defaults. There is delay in paying the amount to the Electricity Department as well as loan granted by the

Cooperative Societies. Respondent no.4 belongs to agriculture sector. The loans are obtained for the purpose of development in agriculture sector. If respondent no.4 had defaulted as alleged, such default being subsequent to the submission of application, the same cannot be taken into consideration.

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 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.

Learned counsel for the petitioner has not been able to point out any perversity or illegality in the orders passed by the Collector. The

well as Financial Commissioner.

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

Dismissed in limine. No order as to costs.

September 22, 2015
vkd

[Paramjeet Singh]
Judge