

CWP-21008-2014

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

CWP-21008-2014

Date of Decision: 14.12.2015

Madan Gopal

... Petitioner(s)

Versus

Financial Commissioner (Revenue), 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. A.S.Gill, Advocate,
for the petitioner.

Mr. S.S.Chandumajra, Addl. A. G. Punjab.

Mr. Kiran Kumar, Advocate,
for respondent No.4.

Paramjeet Singh, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 30.11.2009 (Annexure P-3) passed by respondent No.3-District Collector-Jalandhar-I, appointing respondent No.4-Surinder Pal as Lambardar (S.C.), order dated 29.10.2010 (Annexure P-5) passed by respondent No.2-Additional Commissioner (Appeals), Jalandhar Division, Jalandhar and order dated 22.04.2014 (Annexure P-7) passed by respondent No.1-Financial Commissioner (Revenue), Punjab whereby appeal and revision,

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respectively, filed by the petitioner have been dismissed.

Brief facts of the case are to the effect that to fill up the vacancy caused on account of death of Dhanna Ram, Lambardar (S.C.), village Kaboolpur, Tehsil and District Jalandhar, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, five persons including the petitioner and respondent No.4 submitted their applications and ultimately the petitioner and respondent No.4 left in the fray. The Tehsildar and Sub Divisional Magistrate recommended the name of respondent No.4 for the post of Lambardar. The Collector after appreciating the comparative merit of the petitioner and respondent No.4, found them to be unfit for the post of Lambardar vide impugned order dated 30.11.2009 (Annexure P-3). Against that, the petitioner and respondent No.4 filed separate appeals before respondent No.2-Additional Commissioner (Appeals), Jalandhar Division, Jalandhar who accepted the appeal filed by respondent No.4, however, dismissed the appeal filed by the petitioner and ultimately appointed respondent No.4 as Lambardar vide impugned order dated 29.10.2010 (Annexure P-5). Against that, the petitioner preferred two revisions before respondent No.1-Financial Commissioner, Punjab, who dismissed the same vide impugned order dated 22.04.2014 (Anexure P-7). Hence, this writ petition.

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

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Learned counsel for the petitioner vehemently contended that the petitioner has studied upto 10+2 standard and has also obtained the Diploma of Maintenance Mechanic in Chemical Trade from Punjab State Technical Education and Industrial Training Board. The petitioner has also participated in the National Service Scheme and other social activities. The petitioner is also having 2 kanals of land in village Kaboolpur. The petitioner is well aware of duties of Lambardar, being grand-son of Lambardar. The petitioner is easily available in the village. The comparative merits of the candidates have not been rightly considered by the authorities, therefore, the impugned orders are not sustainable in the eyes of law. In support of his contentions, learned counsel relied upon ***Inderaj vs. Financial Commissioner*** 1994(3) R.R.R. 562 and ***Manjit Singh vs. Financial Commissioner (Appeals-I), Punjab and others*** 2013 (2) R.C.R. (Civil) 368.

Per contra, learned State counsel and learned counsel for respondent No.4 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned orders. Respondent No.4 has also studied upto 10+2 standard and obtained a diploma in Electronic from I.T.I. There are recommendations of Tehsildar and S.D.M. Jalandhar in favour of respondent No.4.

I have considered the rival contentions of learned counsel for the parties.

Vide impugned order dated 29.10.2010 (Annexure P-5), respondent No.2-Addl. Commissioner (Appeals), Jalandhar Division,

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Jalandhar has recorded a finding of fact that the petitioner was working in M/s F.C.Sondhi, Jalandhar at that time and has left the services just before passing the impugned order dated 30.11.2009 (Annexure P-3) by the Collector and ultimately respondent No.2 appointed respondent No.4 as Lambardar. The said finding of fact has been affirmed by respondent No.1 vide impugned order dated 22.04.2014 (Annexure P-7). The case law cited by learned counsel for the petitioner are distinguishable to the facts and circumstances of the present case. In *Inderaj's case (supra)* and *Manjit Singh's case (supra)*, the persons were defaulters of loan and they had paid it before appointment and their availability in village on the date of filing application was not the matter in issue.

In view of above, I do not find any illegality or perversity in the impugned orders.

Dismissed.

No order as to costs.

14.12.2015
parveen kumar

(Paramjeet Singh)
Judge