

CWP No.3179 of 2012

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

CWP No.3179 of 2012
Date of decision: 16.11.2015

Harnek 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. Anil Kumar Sharma, Advocate, for the petitioner.
Mr. Suresh Singla, Addl. A.G., Punjab.
Mr. R.S. Chauhan, Advocate, for respondent No.5.

PARAMJEET SINGH, J.

Instant civil writ petition has been filed for quashing the order dated 30.10.2009 (Annexure P-2) passed by Deputy Commissioner-cum-District Collector, SAS Nagar Mohali, appointing respondent No.5 – Jaik Ram as Lambardar of Village Majria, Tehsil Kharar, District SAS Nagar as well as order dated 24.01.2012 (Annexure P-4) passed by respondent No.1 – Financial Commissioner, Revenue, Punjab, whereby revision petition filed by respondent No.5 has been allowed and order passed by Collector has been affirmed.

Brief facts of the case are that to fill up the vacancy caused on account of death of Bachna Ram, Lambardar of Village Majria, Tehsil

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Kharar, District SAS Nagar, 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 Jaik Ram – respondent No.5 to be fit and suitable candidate and vide impugned order dated 30.10.2009 (Annexure P-2) appointed him as Lambardar of the Village. Aggrieved against the order of the Collector, petitioner filed an appeal before the Divisional Commissioner, Patiala Division, Patiala. The Divisional Commissioner vide order dated 09.09.2010 (Annexure P-3) accepted the appeal and remanded the case to District Collector for fresh decision. Against the order of Divisional Commissioner, respondent No.5 preferred revision before the Financial Commissioner, which has also been allowed vide order dated 24.01.2012 (Annexure P-4) and order of the District Collector has been upheld. Hence, instant writ petition.

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

Only argument raised by learned counsel for the petitioner is that Collector as well as Financial Commissioner have ignored the fact regarding registration of case under Sections 302/329/120 IPC against respondent No.5 and he remained in jail for one and half years although he was acquitted later on. Thus, Collector as well as Financial Commissioner have appointed a person as Lambardar of the Village who

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has a criminal background.

A perusal of the record shows that Collector as well as Financial Commissioner have recorded the concurrent findings. The District Collector after appreciating the comparative merits found respondent No.5 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 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 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.

So far as contention of learned counsel for the petitioner that

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respondent No.5 was involved in criminal case is concerned, this Court in ***Manabhar Hussain v. Financial Commissioner, Department of Revenue, Haryana and others***, 2013(3) R.C.R.(Civil) 266 has held that once the person has been acquitted, he cannot be held to be disentitled for consideration for appointment to the post of Lambardar. It cannot be treated as a stigma against respondent No.5. A Division Bench of this Court in ***Gurbachan Singh v. Financial Commissioner (Appeal-I), Punjab***, 2001(4) R.C.R.(Civil) 22 has held that if a person has been acquitted in a criminal case it cannot be treated as a stigma against him.

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

Dismissed.

No order as to costs.

November 16, 2015
R.S.

(Paramjeet Singh)
Judge