

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 21671 of 2015

Date of Decision: October 29, 2015

Samay Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Aman Pal, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

Instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order dated 23.02.2015 (Annexure P/3) passed by the Financial Commissioner, Haryana whereby revision petition filed by respondent no.2 – Khushi Ram has been accepted and order dated 22.05.2014 (Annexure P/2) passed by the Commissioner, Gurgaon Division, Gurgaon, has been set aside.

Brief facts of the case are that to fill up the vacancy caused on account of death of Ram Swaroop, previous Lambardar of Village

invited from the interested persons by making proclamation in the village. In pursuance of the proclamation, six applications were submitted by Tej Ram son of Phool Singh, Charan Singh son of Leela Ram, Beer Singh son of Devhans, Khushi Ram son of Wazir Singh, Samay Singh son of Jagmal and Jai Chand son of Shiv Lal. Out of above six candidates, Charan Singh and Tej Ram have left their case in the Court of Assistant Collector 2nd Grade, Tauru. The Collector, after appreciating the comparative merit of the candidates found Khushi Ram—respondent no.2 to be fit and suitable candidate and vide order dated 19.03.2013 (Annexure P/1) appointed him as Lambardar of the village. Against the order (Annexure P/1), petitioner preferred an appeal before the Commissioner. The Commissioner, Gurgaon Division, Gurgaon vide order dated 22.05.2014 (Annexure P/2) set aside the order dated 19.03.2013 (Annexure P/1) and remanded the case to the District Collector to decide the matter afresh. Against order (Annexure P/2), respondent no.2 preferred an R.O.R. before the Financial Commissioner, which has also been accepted vide order dated 23.02.2015 (Annexure P/3) and appointed respondent no.2 as Lambardar of the Village. Hence, instant writ petition.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner vehemently contends that

post of Lambardar is for a particular patti. There are two patties in the village. As such, order passed by the Commissioner to verify the number of patties in the village and the deceased Lambardar had relation to which patti and case was remanded to fresh decision, is legal and justified.

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

Petitioner is not disputing the fact that when the advertisement was made, the same was for the entire village and not for particular patti. Otherwise also, nothing has been brought on record that appointment of deceased Lambardar – Ram Swaroop was also for a particular patti. Since the post of Lambardar is for the entire village, I do not find any illegality or perversity in the orders passed by the Collector and the Financial Commissioner. Otherwise also, the order passed by the Commissioner is not sustainable because he had not recorded anything in his order that order passed by the Collector was illegal or perverse.

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.

Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order passed by the Collector. The findings of the Collector have been affirmed by the Financial Commissioner.

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

Dismissed in limine. No order as to costs.

October 29, 2015

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**[Paramjeet Singh]
Judge**