

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.5133 of 2015

Date of Decision:-24.03.2015

Gurdev Singh.

.....Petitioner.

Versus

**The Financial Commissioner & Principal Secy to Govt of Haryana &
Ors.**

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. S.K. Verma, Advocate for the Petitioner.

JASWANT SINGH, J. (ORAL)

Challenge in the present writ petition are to the orders dated 04.12.2014 (P-5) passed by respondent no.1-Financial Commissioner and order dated 31.5.2011 (P-1) passed by respondent no.3-Deputy Commissioner, Jind whereby respondent no.4-Sukhwinder Singh has been appointed as Lambardar of village Nimnabad, Teshil Safidon, District Jind.

The precise grievance of the petitioner in the present case is that the learned Authorities below i.e. respondent no.1 and respondent no.3 have wrongly not taken into account the fact that Sukhwinder Singh-respondent no.4 has not shown any land in his name in the applications dated 23.7.2010 and 18.08.2010 submitted by him for the post of general category Lambardar, meaning thereby that he had no landed property at the time of submitting applications and thus, as per provisions of Rule 15 of the

Punjab Land Revenue Rules, landed property is prime most consideration for the post of general category Lambardar. It was further argued that as per Rule 16 of the Punjab Land Revenue Rules a person is required to be dismissed from the post of Lambardar if he ceases to be a land owner. To substitute his argument learned Counsel for the petitioner has relied upon a Division Bench judgment of this Court in **Mohinder Singh Vs. Financial Commissioner, Haryana & Ors. 2007(1) LAR 542**. Thus prayer was made for appointing him as the Lambardar because he has more merits than respondent no.4 who, as per the petitioner had no land at the time of submission of application for post of Lambardar.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

In the present case, the Assistant Collector, Ist Grade after due verification had recommended the name of respondent no.4 for appointment as Lambardar vide order dated 16.12.2010 and agreeing with the same the Collector, Jind vide its order dated 31.5.2011 appointed him as Lambardar and thereafter, respondent no.4 immediately took charge of post of Lambardar and since then he has been working as such. It is further not in dispute that the respondent no.4 has a vast experience of working as a Lambardar because he was working as a Sarbra Lambardar since year 2001 till his final appointment as Lambardar. It was under these circumstances, the learned Assistant Collector, Grade-I had recommended the name of respondent no.4 for the post of Lambardar. However, the said orders were set aside by the learned Commissioner, Hisar Division vide his order dated 12.10.2011 on the sole ground that the petitioner Gurdev Singh owns more

agricultural land than respondent no.4-Sukhwinder Singh and thus, as per Rules 15 & 16 of the Punjab Land Revenue Rules, it is Gurdev Singh who is required to be appointed as Lambardar in the general category. The said order was challenged by the Sukhwinder Singh before the Financial Commissioner, who has reversed the said order by observing as follows:-

“ I am of the opinion that while assessing the comparative merits and demerits of a candidate for the appointment of a Lambardar, reliance cannot be placed solely on the criteria of ownership of agricultural land as he has been done by the learned Commissioner, Hisar Division. As a matter of fact, the Collector, Jind in his detailed order dated 31.5.2011 has made a comparative table of the qualifications possessed by the three candidates which reveals that the petitioner as the owner of 6 Kanals 14 Marlas of land. Besides, he possesses more than 7 years experience of working as a Sarbara Lambardar and he has also deposited an amount of Rs.2.35 lacs in the small saving scheme of the government. Besides, he is matriculate and, therefore, the Collector Jind correctly agreed with the recommendation of the Assistant Collector, Ist Grade, Safidon and appointed the petitioner as the Lambardar. It is a settled law that the orders of a Collector in the appointment of a Lambardar should only be interfered with, if they suffer from gross irregularity or are perverse. In the present case, it is not so as the Collector has examined the merits and demerits of all the three candidates and correctly arrived at the considered conclusion that the petitioner deserved to be appointed as a Lambardar for reasons mentioned above.”

The argument of the learned Counsel for the petitioner by relying upon Rules 15 & 16 of the Punjab Land Revenue Rules (as applicable to Haryana) is completely misconceived. A perusal of the Rule

15 would show that while appointing a headman, authorities concerned shall see as to whether the candidate has qualifications mentioned from Rules 15(a) to 15(i). The said list is not exhaustive and is only indicative in nature so as to guide the authorities while appointing a person as a Lambardar. Furthermore, it is settled position of law that the authorities exercising the powers under appeal/revision for appointment of a Lambardar shall not interfere in the choice made by the Collector until and unless same is found to be perverse in law or facts. No such perversity or illegality can be found in the appointment. Thus, the learned Financial Commissioner had rightly upheld the appointment of respondent no.4 to the post of Lambardar.

As far as the reliance placed by the learned Counsel for the petitioner on the judgment of Mohinder Singh's case (supra), the said case is completely distinguishable on its own facts especially when Hon'ble Division Bench had not interpreted Rules 15 & 16 of the Punjab Land Revenue Rules at the time of coming to a conclusion that holding of land is an essential qualification to become a Lambardar.

In view of the above, finding no merit in the present petition the same is hereby dismissed

(JASWANT SINGH)
JUDGE

March 24, 2015
Vinay