

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

CWP No. 9128 of 2015

Date of decision: 07.12.2015

Sukhchain Singh

...Petitioner

Versus

F.C. Revenue, 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. S.K. Chawla, Advocate for the petitioner.

Mr. Suresh Singla, Addl. A.G., Punjab.

Mr. S.S. Brar, Advocate for respondent No. 2.

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 setting aside the order dated 25.02.2014 (Annexure P-7), dated 05.08.2014 (Annexure P/8) and order dated 10.03.2015 (Annexure P/12) passed by the Financial Commissioner.

The brief facts of the case are that to fill up the vacancy caused on account of death of Gurdev Singh, previous Lamberdar

of Village Mani Singh Wala, District Faridkot, applications were invited from the interested persons by making publication/proclamation in the village after obtaining sanction from the Competent Authority. In pursuance of the advertisement Sukhchain Singh son of Pirtha Singh, Kulwant Kaur wife of Hardip Singh, Sukhwinder Singh son of Baljinder Singh and Gurdarshan Singh son of Lal Singh applied for the post of Lambardar. The Collector, after appreciating comparative merits of the candidates, appointed Sukhchain Singh S/o Pirtha Singh as Lambardar of the village vide order dated 14.12.2010 (Annexure P-3). Aggrieved against the order of the Collector, respondent No. 2-Gurdarshan Singh preferred an appeal before the Commissioner. The Commissioner upheld the order of the Collector and dismissed the appeal of respondent No. 2 vide order dated 09.05.2012 (P-4). Thereafter, Respondent No. 2-Gurdarshan Singh preferred a revision before the Financial Commissioner whereby the petitioner was proceeded against ex parte vide order dated 25.2.2014 (Annexure P-7) and revision was allowed vide order dated 5.8.2014 (Annexure P-8). The petitioner filed a review application before the Financial Commissioner which has been dismissed vide order dated 10.03.2015(Annexure P-12).

I have heard learned counsel for the parties and perused the record. Learned counsel for the petitioner vehemently contended that the notice was issued to the petitioner to appear

before Financial Commissioner for 4.2.2014 which was a holiday and the case was taken for 5.2.2014 but no orders were passed on that date. On 25.2.2014 the Financial Commissioner passed ex parte order against the petitioner and decided the case vide impugned order dated 5.8.2014(Annexure P-8) and reversed the finding of the Collector as well as the Commissioner. Against the order dated 05.08.2014 (Annexure P-8) petitioner filed review application which has been wrongly dismissed.

Learned counsel for respondent No. 2 vehemently contended that the impugned order has been passed in accordance with law. The petitioner was duly served and the order of the Financial Commissioner appointing respondent No. 2 as Lambardar is strictly in accordance with law.

I have considered the contentions raised by learned counsel for the parties. Admittedly the notice was issued for 4.2.2014 which was a holiday and petitioner was required to be served. Instead of issuing fresh notice, he was proceeded ex parte on 25.2.2014 against the settled principles of law.

Be that as it may however, fact remains that revision petition of respondent No. 2 has been decided without affording opportunity of hearing to the petitioner.

Without going into further merit of the case order dated 5.8.2014 as well as the order dated 10.03.2015 passed by Financial Commissioner are set aside and the case is remitted back to the

Financial Commissioner to decide afresh after hearing both the parties. It is made clear that till the decision of the revision petition, which shall be decided within two months from the receipt of the certified copy of this order, respondent No. 2 shall continue to perform the duties of Lambardar.

Parties are directed to appear before the Financial Commissioner on 12.1.2016

Disposed of.

December 07, 2015
Poonam (II)

(PARAMJEET SINGH)
JUDGE