

LPA No.1537 of 2014 (O&M)

-1-

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

LPA No.1537 of 2014 (O&M)

Date of Decision: September 10, 2015

Mani Ram

...Appellant

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN**

Present: Mr. J.P. Sharma, Advocate,
for the appellant.

Mr. Raman Chawla, Advocate,
for respondent No.6.

..

SATISH KUMAR MITTAL, J.

Mani Ram has filed the instant intra-court appeal under Clause X of the Letters Patent against the judgment dated July 01, 2014 passed by the learned Single Judge, whereby the writ petition (CWP No.18961 of 2012) filed by Krishan Kumar (respondent No.6 herein) challenging the order dated 12.09.2012 (Annexure P1) passed by the Financial Commissioner, Haryana, has been allowed and the order of the Financial Commissioner was set aside while restoring the order dated 16.11.2010 (Annexure P3) passed by the Collector, District Mahendergarh.

This case pertains to appointment of the Lambardar of village Dongra Jat, Tehsil and District Mahendergarh. On account of the death of

the previous Lambardar the said post had fallen vacant. In pursuance of the proclamation made in this regard, four candidates had applied for the said post, including the appellant Mani Ram and respondent No.6-Krishan Kumar.

The Collector, after appreciating the merits and demerits of the respective candidates, appointed Krishan Kumar (respondent No.6 herein) as Lambardar of the village vide order dated 16.11.2010 (Annexure P3) while observing that he is 42 years old, whereas the appellant Mani Ram is 64 years of age. Moreover, Krishan Kumar is an ex-serviceman and has done his graduation from the Army Institute. It has been further observed that as per the Local Commissioner report dated 07.04.2010, the appellant had encroached upon 4 marlas of panchayat land by adding it to his plot. The said order was challenged by the aggrieved persons, including the appellant, by filing the appeals. The Commissioner, Gurgaon Division, Gurgaon dismissed the appeals vide order dated 09.12.2011 (Annexure P2) and upheld the order of the Collector. On revision preferred by the appellant, the Financial Commissioner, Haryana set aside the orders of the Collector as well as the Commissioner and appointed the appellant as Lambardar of the village. Krishan Kumar (respondent No.6) challenged the order of the Financial Commissioner by filing the aforesaid writ petition which has been allowed by the learned Single Judge. Hence, Mani Ram, the unsuccessful candidate before the Collector filed the present appeal.

We have heard the learned counsel for the parties and gone through the orders passed by the revenue authorities as well as the learned Single Judge and are of the opinion that no interference is required in the

judgment passed by the learned Single Judge. A perusal of the order of the Collector which was affirmed by the learned Commissioner, reveals that after appreciating the merits and demerits of all the candidates, the Collector had appointed Krishan Kumar (respondent No.6) as Lambardar of the village.

Now the question arises for consideration is whether in revision the Financial Commissioner was justified to set aside those orders. It is well settled that the choice of the Collector in the matter of appointment of Lambardar should not be interfered with by the revisional authority until and unless it is perverse or suffers from material irregularity or the order passed by the Collector is based on a misrepresentation of facts. In the present case, the Financial Commissioner had interfered in the choice made by the Collector on the ground that the Collector was very much influenced by the allegation that a case under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 was going on against the appellant for illegal possession over the panchayat land, despite the fact that the Assistant Collector Grade-I had finally decided the case in favour of the appellant. The learned Single Judge has come to the conclusion that the Collector has not found the appellant more suitable for the post of Lambardar not only on the aforesaid ground but also after taking into consideration various other aspects and comparative merits of all the candidates including the age, education and experience etc.

After going through the orders passed by the Collector, Commissioner as well as the Financial Commissioner, we are of the opinion that the learned Single Judge has rightly set aside the order of the Financial

Commissioner while observing that the Financial Commissioner without coming to the conclusion that the order of the Collector was perverse and total illegal, has set aside the orders of the Collector and the Commissioner, and appointed the appellant as Lambardar of the village. We do not find any illegality in the order passed by the learned Single Judge.

No merits. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

September 10, 2015
vkg

(MAHAVIR S.CHAUHAN)
JUDGE