

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.2105 of 2014 (O&M)

Date of decision: September 24, 2015.

Kewal Singh

... **Appellant**

v.

Financial Commissioner, Appeals-1, Punjab and others

... **Respondents**

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

CORAM: **HON'BLE MR. JUSTICE HEMANT GUPTA**
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Shri Sarju Puri, Advocate, for the appellants.

Hemant Gupta, J. (oral)

Present letters patent appeal under Clause X of the Letters Patent is directed against an order passed by the learned Single Bench on 11.12.2014, whereby the writ petition filed by the appellant, challenging the order of the Financial Commissioner, setting aside the order of the Commissioner appointing the appellant as Lambardar was set aside.

The post of Lambardar of village Dozanjh Khurd fell vacant on account of dismissal of Shri Harcharan Singh. In pursuance of the proclamation seeking applications for appointment of Lambardar, five applications, including from the appellant and respondent No.4, were received. The Sub Divisional Magistrate considered the applications and recommended the name of respondent No.4 as Lambardar. It is such

recommendation which was accepted by the Collector. However, the learned Commissioner set aside the order of the Collector for the reason that the assertion of respondent No.4 that he was 9th standard pass and owned three acres of land in the village is incorrect. It was observed that the argument of the respondent that the appellant was a heart patient and has undergone heart surgery was never agitated before the Collector and therefore, the appeal was accepted finding the appellant to be more suitable for the post of Lambardar. However, the learned Financial Commissioner found that there was not much difference in the relative merits of the candidates. It was observed that the appellant, aged 64 years, was a matriculate and owned one and a half acre of land whereas, on the other hand, respondent No.4 Makhan Singh was 57 years old, owning 2 acres of land, had studied upto 8th or 9th class. Learned Financial Commissioner observed that he is not giving any definite finding on the educational attainments of respondent No.4 as there not much difference between the two applicants. Consequently, the order of the Commissioner was set aside and that of the Collector was restored. It is the said order which has not been interfered by the learned Single Bench of this Court in the writ petition.

It is well settled that choice of the Collector has to be respected unless there exist cogent and sufficient reasons to differ with the choice. In the present case, the Sub Divisional Magistrate recommended the name of respondent No.4 for appointment as Lambardar. Such recommendation was accepted by the Collector. The Commissioner set aside the same by taking a

different view. Learned Financial Commissioner has rightly found that there is no material difference in the merits of the two candidates, therefore, the choice of the Collector could not have been interfered with. The Commissioner could not set aside the order by taking another view without returning the find that the choice of the Collector is perverse and that there is patent apparent illegality in the order passed.

We do not find any error in the order passed by the Financial Commissioner and affirmed by learned Single Judge.

Dismissed.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

September 24, 2015.
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