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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-1683-2015 [O&M]

Date of Decision : November 26th, 2015

Udham Singh

.... Appellant

Versus

Financial Commissioner, Haryana and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

1. Whether Reporters of 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. Namit Khurana, Advocate,
for the appellant.

SHEKHER DHAWAN, J.

Present intra-court appeal under Clause X of the Letters Patent has been filed by the appellant against the order dated 13.10.2015 passed by learned Single Judge, whereby writ petition filed by Attar Singh, respondent no. 4 herein, was allowed and he was appointed as Lambardar.

2. The present controversy revolves around appointment of Lambardar [General Category] of Village Hafizpur, Sub Tehsil Mustafabad, Tehsil Jagadhari, District Yamuna Nagar. Civil Writ Petition No. 17107 of 2014 was filed by Attar Singh, respondent No. 4, under Articles 226/227 of the Constitution of India for setting aside order dated 29.5.2014 [Annexure

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P/3] passed by Financial Commissioner, Haryana, whereby orders dated 27.9.2012 [Annexure P/1] and 26.03.2013 [Annexure P/2] passed by District Collector, Yamuna Nagar and Commissioner, Ambala Division, Ambala respectively, appointing Attar Singh as Lambardar were set-aside and the present appellant, Udham Singh was appointed as Lambardar.

3. Initially, Attar Singh was appointed as a Lambardar by District Collector, Yamuna Nagar after appreciating the comparative merit of the candidates and the said decision was affirmed by the Commissioner, Ambala Division, Ambala. However, Financial Commissioner, Haryana, respondent No.1, reversed the said orders and appointed the present appellant, Udham Singh, as Lambardar mainly on the ground that the appellant is having knowledge of Computer operations and father of Attar Singh was in illegal occupation of the Panchayat land.

4. Learned Single Judge set-aside the said order of respondent No.1 and upheld the orders passed by District Collector, Yamuna Nagar and the Commissioner, Ambala Division, Ambala; and appointed respondent No.4, Attar Singh as Lambardar.

5. Learned counsel for the appellant urged that the Financial Commissioner has taken the decision while taking into consideration the comparative merit of the candidates, inter se, the present appellant and respondent No.4. The appellant is better candidate as he is having higher educational qualification than respondent No.4 and has knowledge of computer education also. More so, father of Attar Singh, respondent No. 4 was in illegal occupation of land which is to be considered as disqualification for appointment as Lambardar.

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6. We have considered the submissions made by learned counsel for the appellant and are of the view that the Financial Commissioner, respondent No.1 has taken unrealistic view while comparing the qualifications of two candidates for appointment as Lambardar. This can be said so in view of provisions of Rule 15 of the Punjab Land Revenue Rules, as applicable to Haryana for appointment of village Headman reproduced in the order under challenge. None of these grounds are condition precedent for appointment as Lambardar of a village. Learned Single Judge has already dealt with this matter in depth that only bare minimum qualification is to be taken into consideration and choice to find out a suitable candidate lies with the Collector only. The said decision of the Collector can be set-aside if the same is based on perversity or illegality or the candidate is found to be non-suitable for the post. Learned Single Judge has placed reliance upon the judgment from Hon`ble Supreme Court in case – **Mahavir Singh Vs. Khiali Ram and others, 2009(3) SCC 439, Lila Ram Vs. Asa Ram, 1995 Lahore Law Times 29** followed by Division Bench judgment of this Court in **Phool Kumar Vs. State of Haryana and others, 2010 [2] RCR [Civil] 819** to hold that the choice of District Collector cannot be lightly set-aside.

7. As regards to non-suited Attar Singh on the ground that his father was in unauthorized possession of Panchayat land, it is not the matter in controversy that Attar Singh, respondent No. 4 was in illegal possession of any Panchayat property at any point of time. However, a person cannot be non-suited on the ground that any relative of a candidate is in unauthorized possession of any Panchayat land.

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8. In view of the above, there is nothing to interfere in the well reasoned order passed by learned Single Judge dated 13.10.2015. The present appeal is without any merit and same stands dismissed.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

November 26th, 2015
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