

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

LPA No. 1744 of 2015 (O&M)

DATE OF DECISION : 08.12.2015

Sukhdev Raj

.... APPELLANT

Versus

Malkiat Singh and others

.... RESPONDENTS

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

Present : Mr. G.S. Chahal, Advocate,
for the appellant.

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SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 12.10.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 23974 of 2014) filed by Malkiat Singh (respondent No.1 herein) challenging the order dated 02.09.2014 (Annexure P-5) passed by the Financial Commissioner (Revenue), Punjab, has been allowed; and the order dated 10.06.2009 (Annexure P-1) passed by the District Collector, Jalandhar as well as the order dated 19.11.2009 (Annexure P-2) passed by the Additional Commissioner (Appeals), Jalandhar Division, Jalandhar, affirming the order of the District Collector, whereby respondent No.1 was appointed as Scheduled Caste Lambardar of village Bahmanian, have been restored.

We have heard learned counsel for the appellant and have gone through the impugned order passed by the learned Single Judge as well as the order passed by the Financial Commissioner, which has been set aside by the learned Single Judge.

In this case, undisputedly, name of respondent No.1 was recommended by Tehsildar and Sub Divisional Magistrate, for appointment of Scheduled Caste Lambardar. The District Collector, after considering the merits and de-merits of all the candidates, including the appellant, appointed respondent No.1 as Lambardar of the village, finding him more suitable. On appeal filed by the appellant herein and one more candidate namely Faqir (respondent No.5 herein), the said order was affirmed by the Additional Commissioner (Appeals). On further appeal filed by the appellant herein, the Financial Commissioner finding the appellant to be more suitable, ordered for his appointment as Lambardar. On writ petition filed by respondent No.1, the learned Single Judge set aside the said order of the Financial Commissioner, after referring to various decisions of this Court, which clearly lay down that choice of the Collector in the matter of appointment of Lambardar should not be interfered by the higher revenue authorities, if there is no perversity or illegality in the order of the Collector. Learned Single Judge found that in the present case, the Financial Commissioner has interfered in the order of the Collector appointing the appellant as Lambardar of the village, merely by recording a finding that the

appellant being younger in age is more suitable for appointment on the post.

In our opinion, such interference by the Financial Commissioner in the order of the Collector as well as the order of the Additional Commissioner, is not justified and permissible as per the law laid down by this court.

Learned counsel for the appellant could not controvert the aforesaid factual as well as the legal position. However, it has been argued that at present, respondent No.1 is Panch of the village, therefore, he should not be given preference for appointment to the post of Lambardar. This contention cannot be accepted, as under the Rules, there is no bar to appoint a Panch as Lambardar of the village. Therefore, on this ground, the order passed by the Financial Commissioner was not justified. Thus, we are of the opinion that in the facts and circumstances of the present case, the learned Single Judge has rightly set aside the order passed by the Financial Commissioner.

Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

December 08, 2015
ndj

(SHEKHER DHAWAN)
JUDGE