

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

LPA No. 558 of 2015 (O&M)

Date of Decision:-20.04.2015

Ram Ditta

.....Appellant

Versus

Financial Commissioner and another

.....Respondents

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU.

Present:- Mr. Puneet Sharma, Advocate
for the appellant.

SATISH KUMAR MITTAL, J.(Oral)

This intra-court appeal under Clause-X of the Letters Patent has been filed against the order dated 2.7.2014 passed by the learned Single Judge, whereby the writ petition filed by the appellant challenging the order of appointment of respondent No.2 as Lambardar (SC) of Village Abiana Khurd, Tehsil Anandpur Sahib, District Roopnagar, has been dismissed.

Though there is delay of 250 days in filing the appeal and the appellants have filed application (C.M. No. 1122-LPA of 2014) for condoning the delay, yet we have heard learned counsel for the appellant on merits and gone through the order passed by learned Single Judge.

Undisputedly in this case the Collector vide order dated 29.7.2009 (Annexure-P2) after comparing the comparative merit of all the candidates has appointed Amrik Singh as Lambardar of the village while observing as under:

"After perusal of record on the file/hearing the candidates and counsels, it was found that Sh.Amrik Singh is more eligible and young candidate and is more meritorious than other candidates in age/education. Although land is not to be considered while appointment of Scheduled

Caste Namberdar, but having land is also a good status. The village residents have made equal recommendation for all the three candidates and this fact is not appropriate to consider this fact in favour of any particular candidate because the candidate is to be appointed for the post of Namberdar on merit basis and the age of both other candidates namely Sh. Ram Ditta and Sant Ram is more. Whatever objections were raised by the candidates against each other, they defend themselves respectively by submitting their replies as mentioned above, in which no cogent point has arisen. The candidate Sh. Amrik Singh is also entitled for hereditary claim. It is correct that as per law along with hereditary claim, the merit of the candidates should also be kept in mind."

The said appointment was made after following the due procedure of law and receiving the recommendation from the Tehsildar and Sub Tehsildar and after providing opportunity of hearing to the appellant. The choice of the Collector was upheld by the Commissioner as well as Financial Commissioner as the appeal and revision filed by the appellant has been dismissed.

Learned Single Judge, while dismissing the writ petition filed by the appellant challenging the aforesaid order has observed as under:

"A perusal of the record shows that all the authorities have recorded the concurrent findings. The District Collector after appreciating the comparative merits specifically the qualifications and age, found respondent No.2-Amrik Singh to be fit and suitable candidate and appointed him as

such. Otherwise, respondent No.2 has good reputation in the village. It is a settled principle of law that the choice of the Collector cannot be lightly set aside. It can only be set aside if there is perversity or illegality in the impugned order of the Collector. Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order passed by the District Collector. The finding of the District Collector has been affirmed by the Commissioner as well as Financial Commissioner.

In view of law laid down by Hon'ble the Supreme Court of India in the case of Mahavir Singh Vs. Khiali Ram and others, 2009(3) SCC 439, Lila Ram Versus Asa Ram, 1995 Lahore Law Times-29 followed by Division Bench of this Court in the case of Phool Kumar Vs. State of Haryana and others 2010(2) RCR (Civil) 819, the choice of the District Collector cannot be lightly set aside.

In Mahavir Singh's case (supra) the Supreme Court of India has observed that there should be no interference with the choice made by the Collector in the matter of appointment of Lambardar even if two views are possible. It is only the prerogative of the Collector to compare the merits of the candidates for appointment to the post of Lambardar. There are concurrent findings recorded by the revenue authorities.

In view of above discussion, the present writ petition fails.

Dismissed in limine.

No order as to costs. "

After hearing learned counsel for the appellant, we are of the view that in the present case no interference is called for as the counsel for the appellant could not point out any jurisdictional or procedural error or perversity in the impugned order passed by the authorities. It has not been disputed that the Collector after hearing the parties and assessing the comparative merit has appointed the respondent No.2 as Lambardar of the village. Merely because the father of the appellant was also a Lambardar at one point of time whereas the grandfather of respondent No.2 was also a Lambardar of the village will not make any difference and will not make out a ground to interfere in the choice so made especially when the choice has also been upheld by the Commissioner and Financial Commissioner.

We do not find any ground to interfere in the impugned orders.

Dismissed.

**(SATISH KUMAR MITTAL)
JUDGE**

20.04.2015
reema

**(HARINDER SINGH SIDHU)
JUDGE**