

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

**LPA No.951 of 2014 (O&M)
Date of Decision:-31.08.2015**

Sher Singh

.....Appellant

Versus

Financial Commissioner and others

.....Respondents

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

**Present:- Mr. Amarjit Markan, Advocate,
for the appellant.**

**Mr. Sherry K. Singla, Advocate,
for respondent No.4.**

SATISH KUMAR MITTAL, J.

Sher Singh has filed this intra-court appeal under Clause X of the Letters Patent against the order dated 15.05.2014 passed by the learned Single Judge, whereby the writ petition (CWP No.23658 of 2012) filed by him challenging the orders dated 27.12.2005 (Annexure P6), 18.10.2006 (Annexure P7) and 29.08.2012 (Annexure P1) passed by the Collector, Divisional Commissioner and Financial Commissioner, respectively, has been dismissed.

We have heard the learned counsel for the parties and have gone through the impugned orders passed by the revenue authorities as well as the learned Single Judge.

In this case, due to the death of Lambardar of village Islampur,

Tehsil Rajpura, the process to fill up the said vacant post was initiated by making proclamation in the village. In response to the said proclamation only one application of Sher Singh (appellant herein) was received. Naib Tehsildar and Tehsildar recommended the name of the appellant for the said post. The Collector vide order dated 27.12.2005 (Annexure P6) appointed the appellant as Lambardar of the village finding nothing adverse against him.

Respondent No.4-Hardeep Singh, a resident of the village, challenged the appointment of the appellant by filing an appeal before the Divisional Commissioner, Patiala Division, Patiala by contending that he was more meritorious in comparison to the appellant but he could not apply for the post as in the present case no proper proclamation was made in the village. This had resulted in receipt of only one application of the appellant. It was also pleaded that the alleged munadi report showed the signatures of only those persons who had deposed in favour of the appellant for his appointment as Lambardar. This fact itself is sufficient to prove that the munadi was made in clandestine manner in order to help the appellant to secure the post of Lambardar. The Divisional Commissioner while finding that no proper procedure was followed while making proclamation in the village, accepted the appeal filed by respondent No.4 and set aside the appointment of the appellant as Lambardar of the village and remanded the matter to make a fresh proclamation in the village as per the procedure for inviting applications for the post of Lambardar.

The appellant filed an appeal against the aforesaid order before

the Financial Commissioner, who vide order dated 29.08.2012 (Annexure P1) had dismissed the same, while observing as under:-

“...The Commissioner Patiala while allowing appeal has mentioned in his order dated 18.09.2006 that the publication has not been done in the proper manner in the village during the proceedings in this case for the appointment of Lamberdar. It is necessary to effect publication in the proper manner in order to fill the vacancy of Lamberdari in the village and the Collector was ordered to initiate de-novo proceedings. The defects have been mentioned in the order of Commissioner and it has been stated that an order to fill up the vacancy of Lamberdar has been passed in this regard by AC 1st Grade, whereas it should have been passed by District Collector. I agree with the order passed by Commissioner. In this case fresh proceedings have to be initiated for the appointment of Lamberdar according to rules. Therefore this appeal is dismissed.”

Feeling aggrieved against the said order, the appellant filed the writ petition which has also been dismissed by the learned Single Judge vide impugned order.

Learned counsel for the appellant argued that in the present case a proper proclamation was made, therefore, there was no reason and occasion for the learned Divisional Commissioner to set aside the appointment of the appellant and to remand the matter to the Collector to make the appointment after a fresh proclamation. It has further been argued that the learned Financial Commissioner while passing the interim order

dated 9.7.2007 (Annexure P2) at the time of stay had observed that prima-facie proper proclamation was not made, therefore, those facts have not been considered by the Financial Commissioner. We have gone through the order dated 29.08.2012 (Annexure P1) passed by the Financial Commissioner. It has been noticed by the Financial Commissioner that an order to fill up the vacancy of Lambardar has been passed by AC 1st Grade, whereas the same should have been passed in this regard by the District Collector. The learned Single Judge has affirmed this finding of the Financial Commissioner. Since the finding of fact has been affirmed by the learned Single judge, this Court will not go into that question. Even otherwise, we are of the opinion that even if the matter has been remanded, no prejudice is caused to the appellant because in the fresh proclamation also he can again make the application for appointment as Lambardar of the village.

In view of the aforesaid, we do not find any merit in the appeal and the same is hereby dismissed.

(SATISH KUMAR MITTAL)
JUDGE

August 31, 2015
vkg

(MAHAVIR S. CHAUHAN)
JUDGE`