

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

LPA No.998 of 2014

DATE OF DECISION : September 28, 2015

Pritam Singh

.... APPELLANT

Versus

Financial Commissioner, Social Security,
Punjab, Chandigarh and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present: Mr. K.S. Dadwal, Advocate,
for the appellant.

Mr. B.S. Chahal, DAG, Punjab,
for respondents No.1 to 3.

None for respondent No.4.

Mr. Naveen Batra, Advocate,
for respondent No.5.

...

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed by the appellant against the order dated 02.06.2014 passed by the learned Single Judge, whereby the writ petition (C.W.P. No.78 of 2013) filed by the appellant challenging the order dated 02.11.2012 (Annexure P-5) passed by the Financial Commissioner remanding the case to the Collector to examine the merits and de-merits of all the candidates afresh and appoint

a suitable person who has an unblemished record, has been dismissed.

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

In this case, on removal of the previous Lambardar of the village, the process of appointing a new incumbent on the said post was started by the Collector. Eight candidates, including the appellant, had applied for the said post. After getting their antecedents and character verified, their claim for appointment on the said post was considered. The District Collector vide its order dated 26.03.2009 (Annexure P-1) after hearing all the parties appointed the appellant as Lambardar of the village, while observing as under:-

“I have perused the entire record placed on the file and considered the arguments put forth by the counsel and the candidate. As far as qualifications of the candidates are concerned, this ranges from 8th class to Matric. Sh. Pritam Singh, however, remained President of Cooperative Agri. Society. He was also member of Badial Committee from 2003 to 2008. He is Vice President of Milk Producer Society. This proves his exposure to the general public and also his popularity amongst the villagers. He, therefore, has got an edge over the other candidates. I find him the best suited for the post of Lambardar and accordingly appoint Sh. Pritam Singh son of Sh. Ajit Singh as Lambardar of village Harmoya, Tehsil and District Hoshiarpur. Order is announced in the presence of the counsel and the candidate. File may be consigned to the record room after due compliance.”

In appeal, the said order was upheld by the Commissioner vide order dated 22.12.2009 (Annexure P-2). Being dissatisfied, two revision petitions were filed (one by Sarwan Chand-respondent No.4 and other by Dharminder Singh-respondent No.5) and the Financial Commissioner vide order dated 02.11.2012 (Annexure P-5) set aside the aforesaid orders and remanded the case back to the District Collector for afresh consideration from among all the candidates who applied for the post, while observing as under:-

“5. I have gone through the arguments submitted by both the counsels. I have also perused through the record on file of Lower courts. All the three candidates before me have some or other deficiency in their conduct. Pritam Singh s/o Ajit Singh appointed as Lambardar by Collector is involved in case of power theft. Sarwan Chand has encroached on public land and is also involved in case of Sec 107/151 with his brother. The petitioner Dharminder Singh's family was also involved in the case of power theft. I feel disinclined to appoint any of them as Lambardar. The conduct of the Lambardar and his family has to be above board.

6. Accordingly, I set aside the orders of Commissioner and District Collector and remanded the case with the direction that the District Collector may examine all the candidates afresh from among all the candidates who applied for the post and appoint a person who has unblemished record. While doing so that observations made in this order against the above three persons may also be kept in mind. Parties are directed to appear before District Collector, Hoshiarpur on 9.1.2013.”

It is pertinent to mention here that feeling aggrieved against the

said order, the unsuccessful candidate, namely, Sarwan Chand (respondent No.4 herein) filed the writ petition (C.W.P. No.24969 of 2012). The said writ petition was dismissed by the learned Single Judge on 17.12.2012, while observing as under:-

“Eight candidates applied for appointment to the post of Lambardar. Collector appointed respondent No.4. The petitioner and respondent No.5 filed an appeal, which was dismissed. The Financial Commissioner allowed the revision and set-aside the appointment of respondent No.4. It was found that he was accused of power theft. Petitioner could not be appointed as he was also found involved in proceedings under Section 107/151 Cr.P.C. and also had allegedly encroached some public land. The third person was also found accused of power theft. The case has accordingly been remanded for fresh consideration.

Considering the facts as involved, the order appears justified and reasonable. No case for interference in exercise of writ jurisdiction is made out.

Dismissed.”

The appellant has also challenged the aforesaid order of the Financial Commissioner by filing the writ petition (C.W.P. No. 78 of 2013) which has been dismissed by the impugned order passed by the learned Single Judge while holding that no ground is made out to take a different view as this Court had already expressed its opinion about the order passed by the Financial Commissioner. Thus, finding no ground for interference in the writ jurisdiction, the writ petition was dismissed.

We have heard the learned counsel for the parties.

Learned counsel for the appellant argued that the Financial

Commissioner wrongly held that the appellant was involved in a case of power theft. In this regard, the learned counsel for the appellant has relied upon a document dated 24.01.2011 (Annexure P-4), i.e. information obtained under the RTI Act, 2005 wherein it has been mentioned that the brother of the appellant, namely, Shri Skattar Singh had deposited the amount of fine towards the said electricity connection. When this Court pertinently asked the learned counsel for the appellant that in whose name the said electricity connection was installed, he could not be able to reply. However, in the document Annexure R-4/2 filed with the written statement of respondent No.4, it has been clearly mentioned that the appellant has been the consumer of that electricity connection. Therefore, if the fine was deposited by the appellant through his brother, it will not make any difference. Thus, keeping in view these facts, we are of the opinion that the Financial Commissioner was fully justified while holding that the appellant was not fit to be appointed as Lambardar being involved in a case of power theft and, thus, has rightly remanded the matter to the District Collector to again consider the merits and de-merits of all the candidates afresh, in accordance with law. Thus, the learned Single Judge has rightly upheld the order of the Financial Commissioner.

No merits. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

September 28, 2015
vkg

(MAHAVIR S. CHAUHAN)
JUDGE