

**Civil Writ Petition No. 11479 of 2008**

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

**Civil Writ Petition No. 11479 of 2008**

**Date of Decision: 17.10.2016**

Nachhattar Singh

.....Petitioner

Vs.

Financial Commissioner (Appeals-I), Punjab and another

.....Respondents

**CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present : Mr. H.S. Dhandi, Advocate  
for the petitioner.

Mr. Yatinder Sharma, Addittional A.G. Punjab.

Mr. Gurcharan Singh Bains, Advocate for  
Mr. Vijay Sharma, Advocate  
for respondent No.2.

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**RAMESHWAR SINGH MALIK J. (ORAL)**

Feeling aggrieved against the impugned order dated 27.3.2008 (Annexure P-6) passed by the Financial Commissioner (Appeals-I), Punjab and order dated 12.6.2002 passed by the Collector, Patiala Division, Patiala, whereby respondent No.2 was appointed as Lambardar, petitioner has approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned orders.

Learned counsel for the petitioner submits that order Annexure

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P-5 was rightly passed by the Commissioner, Patiala Division, Patiala, setting aside the order passed by the District Collector and appointing the petitioner as Lambardar. He further submits that the Financial Commissioner proceeded on a misconceived approach, while passing the impugned order dated 27.3.2008 (Annexure P-6), allowing the appeal filed by respondent No.2. Referring to the comparative merits of both the candidates, learned counsel for the petitioner submits that petitioner was having more land than respondent No.2. As per police verification, he was enjoying good character. He was having good relations with the residents of village and was also enjoying good financial condition. Petitioner studied up to 5<sup>th</sup> class, whereas respondent No.2 was an illiterate person. Since these comparative merits were not properly appreciated by the Collector as well as Financial Commissioner, impugned orders are liable to be set aside. He prays for setting aside the impugned orders, by allowing the present writ petition.

Per contra, learned counsel for respondent No.2 submits that initially the appeal of the petitioner was rightly dismissed by the Commissioner vide order Annexure P-4. However, Commissioner committed a serious error of law, while entertaining a review application filed by the petitioner, accepting his appeal by passing a totally illegal order Annexure P-5. In such a situation, Financial Commissioner was well justified, while setting aside the order passed by the Commissioner. He prays for dismissal of the writ petition.

Having heard learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that order passed by the District Collector was not suffering from

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any patent illegality or perversity and the same deserves to be upheld, for the following more than one reasons.

It is the settled proposition of law that District Collector, being the appointing authority of Lambardar, his choice is not to be upset lightly by the higher revenue authorities, until order passed by the District Collector is found suffering from any patent illegality. In the present case, appeal of the petitioner was initially dismissed by the Commissioner, vide order dated 30.7.2003 (Annexure P-4). If the petitioner was feeling aggrieved against the said order, he had the remedy of revision before the Financial Commissioner. However, instead of filing revision against the abovesaid order passed by the Commissioner, petitioner filed review application which was illegally entertained by the Commissioner and he reversed his own order vide order dated 24.12.2003 (Annexure P-5), without there being any change in the circumstances. In such a situation, it is unhesitatingly held that Commissioner exceeded his jurisdiction, while passing the order dated 24.12.2003 (Annexure P-5), and that too, without recording any finding that order passed by the District Collector was suffering from any patent illegality or perversity.

In the abovesaid undisputed facts and circumstances, Financial Commissioner was well within his jurisdiction and was fully justified in setting aside the abovesaid order passed by the Commissioner and restoring the order passed by the District Collector, appointing respondent No.2 as Lambardar.

There is another relevant aspect of the matter, which deserves to be noticed here. As reflected from bare reading of Annexure P-7-an identity card of Lambardar was issued in favour of the petitioner. As rightly pointed

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by learned counsel for the petitioner that said identity card came to be issued in favour of the petitioner after passing of the order dated 24.12.2003 (Annexure P-5) by the Divisional Commissioner, Patiala. In the said identity card (Annexure P-7), issued somewhere in December, 2003 or January 2004, age of the petitioner has been recorded as 56 years, meaning thereby, he is about 69 years of age as on date. Having said that, this Court feels no hesitation to conclude that petitioner is no more entitled for appointment to the post of Lambardar at this advanced age of 69 years. Reference in this regard can be made to the judgment of the Hon'ble Supreme Court in **Mahavir Singh and Khiali Ram and others, 2009 (3) SCC 439.**

At this stage, learned counsel for the petitioner has tried to point out similar disability regarding age in respondent No.2 as well. He submits that when statement of respondent No.2 was recorded in the year 2000, he claimed himself to be 50 years of age. However, contention raised by learned counsel for the petitioner has been found misplaced for the reason that respondent No.2 came to be appointed as Lambardar by District Collector on 2.6.2002, when he was about 52 years of age. In this view of the matter, it can be safely concluded that District Collector as well as Financial Commissioner committed no error of law, while passing their respective impugned orders and the same deserve to be upheld, for this reason also.

So far as ownership of land is concerned, although respondent State has not brought any amendment in Rule 15 of the Punjab Land Revenue Rules, yet the material fact which cannot be lost sight of, is that the land revenue has been abolished in both the States of Punjab and Haryana long back. In this view of the undisputed fact situation and taking judicial

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notice thereof, it is held that after abolition of the land revenue, ownership of land is not of much significance. Further, no demerit, as such, was pointed out in respondent No.2.

In fact, District Collector satisfied himself about the comparative merits of both the candidates and after examining the case thoroughly, he found respondent No.2 as the most suitable candidate for the post of Lambardar. Accordingly, respondent No.2 was appointed as Lambardar, vide order dated 12.6.2002, which was rightly restored by the Financial Commissioner, vide impugned order dated 27.3.2008 (Annexure P-6). Since none of the impugned orders have been found suffering from any patent illegality or perversity, the same deserve to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

17.10.2016  
*Ak Sharma*

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

*Whether speaking/reasoned Yes/No*  
*Whether reportable: Yes/No*