

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.10030 of 2016

Date of decision: 14.07.2016

Mohinder Singh

... Petitioner

Vs.

Harjinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vikram Anand, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 28.12.2006 passed by the District Collector, Kapurthala, appointing respondent No.1 as Lambardar and the subsequent appellate as well as revisional orders passed by the Commissioner and Financial Commissioner upholding the appointment of respondent No.1.

Facts of the case are not in dispute. Petitioner as well as respondent No.1 were the two candidates for the same post of Lambardar. After considering the comparative merits of both these candidates, learned District Collector vide his order dated 28.12.2006 (Annexure P-1) appointed respondent No.1 as Lambardar. Petitioner filed his appeal which was allowed by Commissioner, Jalandhar Division, Jalandhar and appeal filed by respondent No.1 was also dismissed by Financial Commissioner, Punjab vide order dated 15.01.2010 (Annexure P-3). Thereafter, respondent No.1 approached this Court by way of CWP No.4577 of 2010. This Court set aside the orders passed by Commissioner

as well as Financial Commissioner and remanded the matter back to the Commissioner for fresh decision vide order dated 25.04.2011 (Annexure P-4). In compliance of the abovesaid order passed by this Court, Commissioner, Jalandhar Division, Jalandhar upheld the appointment of respondent No.1 vide impugned order dated 13.03.2013 (Annexure P-5) and the revision of the petitioner was also dismissed by Financial Commissioner vide impugned order dated 03.02.2016 (Annexure P-6). Hence this writ petition at the hands of unsuccessful candidate for the post of Lambardar.

Learned counsel for the petitioner submits that petitioner was better educated than respondent No.1. He also submits that respondent No.1 faced one criminal case in the year 1994. Although the offence alleged against respondent No.1 was compounded, yet that will not completely absolve him from the liability, which would cast a stigma on his character. He also refers to an order dated 16.03.2010 passed by this Court in CWP No.4577 of 2010 filed by respondent No.1, wherein he claimed that he was not member of panchayat, whereas before the Collector, he was claiming himself to be a member of panchayat. He concluded by submitting that since the respondent authorities have not properly appreciated the abovesaid relevant aspect of the matter, the impugned orders are illegal and the same are liable to be set aside. He prays for allowing the present writ petition.

Having heard the learned counsel for the petitioner at considerable length, after going through the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the impugned orders passed by the revenue authorities have not been found suffering from any patent illegality. The writ petition is without any merit and the

same is liable to be dismissed.

A bare combined reading of the impugned orders passed by the Collector, Commissioner as well as Financial Commissioner would show that concurrent findings of facts have been recorded by all the three revenue authorities. The findings recorded in the impugned orders are supported by sound reasons. It is not the pleaded or argued case on behalf of the petitioner that he was not granted due opportunity of being heard. Learned counsel for the petitioner could not substantiate any of his arguments. Once the offence alleged against respondent No.1 in the year 1994 stood compounded between the parties and the matter was amicably settled, no stigma would be attached with the character of respondent No.1. So far as the issue regarding his membership of panchayat is concerned, this Court has not recorded in its order dated 16.03.2010 (Annexure P-7) that respondent No.1 was never a member of panchayat. In fact, the arguments raised by learned counsel for the petitioner have been found based only on the technicalities without there being any substance in either of the arguments.

It is the settled proposition of law that choice of Collector in the matters of appointment of Lambardar deserves to be given due respect until and unless the order passed by the Collector is found suffering from patent illegality or perversity. So far as the instant case is concerned, no such illegality or perversity has been pointed out in either of these three orders passed by the revenue authorities. No disqualification in candidature of respondent No.1 has been pointed out by learned counsel for the petitioner. Commissioner as well as Financial Commissioner committed no error of law, while upholding the appointment of respondent No.1 because the order passed by the District

Collector was based on sound reasons. So far as the age and education of both the candidates was concerned, both of them were almost at par.

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 the impugned orders passed by the respondent authorities deserve to be upheld. The 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.

[RAMESHWAR SINGH MALIK]
JUDGE

14.07.2016
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