

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No.11153 of 2015
Date of Decision : 14.7.2016

Randhir Singh

.....Petitioner

Vs.

Financial Commissioner (Revenue) Haryana and anotherRespondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr.Sandeep Kumar Sharma, Advocate for the petitioner.
Mr. Sandeep Singh Mann, Sr. DAG, Haryana.
Mr. S.P. Chahar, Advocate for respondent no.2.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Present petition is directed against the order dated 21.1.2015 passed by the Financial Commissioner, Haryana, whereby the order dated 7.4.2011 passed by the Collector, directing the Tehsildar, Rohtak, to initiate the process afresh for appointment of Lambardar as well as the order passed the Commissioner, Rohtak Division, Rohtak, were upheld.

Facts are hardly in dispute. Petitioner as well as respondent no.2, alongwith other candidates applied for appointment to the post of Lambardar. After examining their antecedents, both of them were found ineligible by the Collector, vide his order dated 7.4.2011 (Annexure P-3).

Respondent no.2 was found to be a convicted person, whereas petitioner

was not found fit for the post of Lambardar, as he allegedly embezzled wheat stock meant for distribution to the persons entitled for the same, when he was working as Sarpanch. This order passed by the Collector was challenged by both these candidates before the Commissioner, and the learned Commissioner, Rohtak Division, Rohtak, vide his order dated 12.10.2011 (Annexure P-4) upheld the above said order passed by the Collector, Rohtak. Petitioner as well as respondent no.2 challenged the above said orders passed by the Collector as well as Commissioner before the learned Financial Commissioner, who dismissed the revision filed by both the parties, vide his impugned order dated 21.1.2015 (Annexure P-5). Hence, this writ petition.

Heard learned counsel for the parties.

A bare combined reading of all the three 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. Neither the petitioner nor respondent no.2 were found enjoying clean record. The operative part of the order dated 21.1.2015 passed by the Financial Commissioner, reads as under :-

“ I have considered the arguments advanced by counsel of both the petitioners and the State counsel, gone through the impugned orders and have also examined the record of the present case. It is a settled proposition of law that decision of the District Collector in case of appointment of lambardar is not to be interfered with, unless the same is perverse in law and facts. In the present case. The District Collector after

considering the merits and demerits of both the candidates found both the candidates unsuitable for appointment to the post of lambardar and observed that Shri Randhir Singh, petitioner has misappropriated the wheat stock entrusted to him while he was posted at Sarpanch of the village and Shri Roshan Lal petitioner was convicted in a criminal case registered against him. I do not find any illegality or perversity in the decision of the District Collector since as per law a person of absolute integrity, good moral character and reputation can only be appointed as lambardar. Therefore, I do not find any merit in the present revision petitions. Moreover, subsequent to the order of the Collector dated 7.4.2011 and in compliance thereof, fresh process to appoint a lambardar has been started and one person named Shri Jagdish S/o Dharam Singh had been appointed Lambardar by the Collector vide his order dated 12.1.2012 and appealed against the Court of Commissioner, Rohtak. The order passed by the Commissioner, Rohtak dated 27.5.2012 has been challenged before this court through ROR 658 of 2012, which is also being disposed of through a separate order.

In view of the discussions as made above both the above titled revision petitions are hereby dismissed. Be communicated to all concerned.”

At this stage, learned counsel for respondent no.2 has rightly

pointed out that present writ petition has been rendered infructuous because Jagdish S/o Dharam Singh had already been appointed as Lambardar by the Collector, vide his later order dated 12.1.2012. He further submits that respondent no.2 challenged said order dated 12.1.2012 before the Commissioner, who accepted his appeal remanding the case to the Collector to pass a fresh order after reconsidering the matter. Feeling aggrieved against the order dated 27.5.2012 passed by the Commissioner, Rohtak Division, Rohtak, Jagdish Chander, who was appointed by the Collector vide order dated 12.1.2012, approached the Financial Commissioner by way of ROR No.658 of 2012, which also came to be dismissed by the Financial Commissioner, vide his order of even date, i.e. dated 21.1.2015. He further submits that the Financial Commissioner has directed the Collector to invite fresh applications from eligible candidates to fill up the post of Lambardar, in accordance with law.

Since the said order dated 21.1.2015 passed by the Financial Commissioner in ROR No.658 of 2012 has not been challenged before this court, the present petition is not even maintainable. It is so said because learned counsel for the petitioner could not deny the above said material fact situation and rightly so it being a matter of record.

Be that as it may, since in compliance of the remand order dated 7.4.2011 passed by the Collector, de nova process was started and after completion thereof, a third candidate namely; Jagdish Chander S/o Dharam Singh was appointed as lambardar, present writ petition is not maintainable, because the impugned remand order already stands implemented.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, all the three orders passed by the revenue authorities are upheld. The present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

With the above said observations made, present writ petition stands dismissed, however, with no order as to costs.

14.7.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE