

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

**CWP No.10400 of 2016
Date of decision: 21.07.2016**

Dharminder Singh

... Petitioner

Vs.

Financial Commissioner (Appeals), Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mrs. K.K. Kahlon, Advocate for
Mr. A.P. Singh, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Instant writ petition is directed against the order dated 10.02.2016 (Annexure P-7) passed by Financial Commissioner (Appeals), Punjab, whereby he set aside the order dated 04.05.2011 (Annexure P-6) passed by Commissioner, Jalandhar Division, Jalandhar and the order dated 06.07.2010 (Annexure P-5) passed by District Collector, Gurdaspur was restored, appointing respondent No.4 as Lambardar.

Learned counsel for the petitioner submits that petitioner was better qualified than respondent No.4. He was having more land than respondent No.4. Respondent No.4 was not having any hereditary claim. Petitioner was more popular in the village, as he had been member panchayat. Placing reliance on the judgments of this Court in **Harjinder Pal Vs. Financial Commissioner Cooperation, Punjab and others, 2013 (3) RCR (Civil) 835, Satish Kumar Vs. State of Haryana and others, 2011 (5) Law Herald 501 and Bhajan Singh Vs. State of Punjab and others, 2012 (1) LAR 310**, she prays for setting aside

the impugned order passed by the Financial Commissioner, Punjab, by allowing the present writ petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of 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 Financial Commissioner as well as by District Collector are based on true facts of the case and have also been found having passed in accordance with law, because of which the same deserve to be upheld. Writ petition is without any merit and the same is liable to be dismissed.

Order passed by the District Collector clearly shows that comparative merits of both the candidates were carefully examined and rightly considered. Respondent No.4 was found having a clear edge on the petitioner. Both the candidates were having almost equal educational qualifications. So far as the ownership of land was concerned, petitioner was not having any better claim. In fact, since land revenue has already been abolished long back in the respondent-State, ownership of big chunk of land may not be requirement of law any further for appointment to the post of Lambardar.

In addition to the above, respondent No.4 was found having performed the duties of Lambardar after the death of his father, thus, he was knowing the job of Lambardar. It is pertinent to note here that neither respondent No.4 was having any hereditary claim nor any such hereditary claim was made basis for passing the order by the District Collector appointing respondent No.4 as Lambardar. It was only a fact recorded and the said fact cannot be read against respondent No.4 and in favour of the petitioner, under any circumstances. The abovesaid order dated 06.07.2010 (Annexure P-5) passed by the District

Collector, Gurdaspur was challenged by the petitioner before the Commissioner, Jalandhar Division, Jalandhar who fell in serious error of law, while passing his order dated 04.05.2011 (Annexure P-6) setting aside the order passed by the District Collector.

Feeling aggrieved against the abovesaid order dated 04.05.2011 (Annexure P-6) passed by the Commissioner, respondent No.4 rightly challenged the same before Financial Commissioner. After hearing both the parties, Financial Commissioner came to a definite conclusion that the order passed by the Commissioner was patently illegal, because he should not have interfered in the choice of the District Collector, as the order passed by District Collector was not suffering from any patent illegality or perversity.

Financial Commissioner also recorded sound reasons in support of his findings and the same read as under: -

“In the present case the District Collector has gone through the merits and demerits of both the candidates in details. He has recorded that educational qualification of both the contenders were more or less same and with regard to the ownership of the land there is no much difference. He has further recorded that petitioner is son of Ex-Lambardar. Owing to these reasons he has ordered the appointment of the petitioner as Lambardar. The Id. Commissioner has gone into the evaluation between both the candidates without finding any irregularity or illegality in the orders of District Collector. Even the Hon'ble Punjab and Haryana High Court in LPA No.771 of 2012 has held that the choice of the Collector needs to be respected on merits. The orders of District Collector should

not be interfered unless any major irregularities are found. Undoubtedly it has to be accepted that when the merit of a person for being appointed as Lambardar are well assessed by the Ground level Revenue official as they have better understanding and information at the ground level and are aware of the reputation, working and eligibility to shoulder the responsibility in a better manner. Unless there are legal irregularities or decision based on wrong facts or are violative of any law, interference from higher authorities or courts are not desirable in such cases.”

So far as the judgments relied upon by learned counsel for the petitioner are concerned, there is no dispute about the observations made therein. However, on close perusal of the cited judgments, none of them have been found of any help to the petitioner, these being distinguishable on facts. It is the settled proposition of law that peculiar facts of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

The cogent findings recorded by the Financial Commissioner have been found duly supported by sound reasons. The impugned order has not been found suffering from any patent illegality or perversity. He has rightly set aside the order passed by the Commissioner and restored the order passed by the District Collector, whereby respondent No.4 was appointed as Lambardar. Learned counsel for the petitioner could not substantiate any of her arguments during the course of hearing. It is the settled proposition of law that choice of

Collector in the matters of appointment of Lambardar is not to be interfered with lightly, until and unless order passed by the Collector is found patently illegal or perverse. No such patent illegality or perversity has either been pointed out by learned counsel for the petitioner nor the impugned order passed by the Financial Commissioner has been found suffering from any such patent illegality and the same deserves to be upheld.

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 order passed by the Financial Commissioner (Appeals), Punjab deserves to be upheld. Present writ petition is 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, instant writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

21.07.2016
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