

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

CWP No. 11337 of 2016
Date of decision: 01.06.2016

Pargat SinghPetitioner
Versus

Financial Commissioner, Punjab and othersRespondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. Vikas Mehsempuri, Advocate, for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Paramjeet Singh Dhaliwal, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order dated 28.10.2014 (Annexure P-3) passed by respondent no.3 –District Collector, Fatehgarh Sahib, whereby respondent no.4 –Deepak Dhawan has been appointed as Lambardar of Village Ajnali, Tehsil Amloh, District Fatehgarh Sahib order dated 16.04.2015 (Annexure P-5) passed by respondent no.2 – Divisional Commissioner, Patiala Division, Patiala and order dated 08.01.2016 (Annexure P-7) passed by respondent no.1- Financial Commissioner (Appeals), Punjab whereby appeal and revision filed by the petitioner have been dismissed.

Brief facts of the case are that to fill up the vacancy caused on account of death of previous Lambardar of Village Ajnali, Tehsil Amloh, District Fatehgarh Sahib, applications were invited

from the interested persons by making proclamation in the village. In pursuance of the proclamation, 4 applications were received. The Collector, after appreciating the comparative merit of the candidates found Deepak Dhawan—respondent no.6 to be fit and suitable candidate and vide order dated 28.10.2014 (Annexure P-3) appointed him as Lambardar of the Village. Against the order (Annexure P-3), petitioner preferred an appeal before the Commissioner. The Commissioner, Patiala Division, Patiala, vide order dated 16.04.2015 (Annexure P-5) dismissed the appeal. Thereafter, petitioner preferred revision before the Financial Commissioner, which has also been dismissed vide order dated 08.01.2016 (Annexure P-7). Hence, instant writ petition.

Learned counsel for the petitioner vehemently contends that respondent No. 6-Deepak Dhawan is doing business of selling mobile phones so he will not be easily available to the residents of the village throughout. To support his contention he has filed some affidavits of some residents of the village (Annexure P-8 to P13 colly) along with the petition.

I have heard learned counsel for the petitioner and perused the record.

The availability of the respondent cannot be judged from the fact that he is doing business of selling mobile phones. Otherwise also Lambardar is not paid any substantial amount as salary for his services but only a meager stipend is paid to the Lambardar. A person is required to earn to meet the needs and necessities of his family. So

far as other affidavits of the villagers are concerned, the same cannot be taken into consideration at this stage because this Court only deals with the questions of law and not of facts. Therefore, fresh facts which were not before the revenue authorities cannot be appreciated. He further submits that this is Patti Lambardar. This cannot be accepted as the same is not brought out from the record because it was never advertised for the Patti Lambardar. It was for the entire village. No documents have been annexed to show that it was only for Patti Lambardar. Moreover, the Hon'ble Supreme Court of India in the case of **Mahavir Singh Vs. Khiali Ram & others, 2009(3) SCC-439, Lila Ram Vs. Asa Ram, 1955 Lahore Law Times-29** followed by Division Bench of this Court in the case of **Phool Kumar Vs. State of Haryana and others, 2010 (2) RCR (Civil) 819**, held that the choice of the District Collector cannot be lightly set aside.

In **Mahavir Singh's** case (supra) the Hon'ble Supreme Court of India has observed that there should be no interference with the choice made by the Collector in the matter of appointment of Lambardar even if two views are possible until there is some illegality or perversity in his order. It is the prerogative of the Collector to compare the merits of the candidates for appointment to the post of Lambardar. There are concurrent findings recorded by the revenue authorities.

Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order passed by the

Collector. The findings of the Collector have been affirmed by the Commissioner and the Financial Commissioner.

In view of above discussion, the present writ petition fails.

Dismissed in limine.

01.06.2016
PA

(Paramjeet Singh Dhaliwal)
Judge