

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 14449 of 2016
Date of Decision: 23.7.2016

Naresh Kumar

.....Petitioner

Vs.

Financial Commissioner, Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Vineet Chaudhary, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Instant writ petition is directed against the order dated 6.1.2015 (Annexure P-3) passed by the Financial Commissioner, Haryana, whereby revision filed by respondent No.3 was allowed, setting aside the order dated 31.3.2010 (Annexure P-2) passed by the Commissioner, Ambala Division and restoring the order dated 7.1.2010 (Annexure P-1) passed by the District Collector, Ambala, appointing respondent No.3 as Lambardar.

Learned counsel for the petitioner submits that petitioner was a better placed candidate than respondent No.3 for the post of Lambardar. Petitioner is 10th class pass whereas respondent No.3 has studied up to 8th

class. So far as criminal case against the petitioner is concerned, he had been acquitted of the criminal charge. He further submits that since the District Collector failed to appreciate the comparative merit of both the candidates, while passing the impugned order, it was rightly set aside by the Commissioner but the learned Financial Commissioner misdirected himself, while passing the impugned order Annexure P-3 and that too without, recording sufficient reasons. He prays for setting aside the impugned order passed by the Financial Commissioner, by allowing the present writ petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since the impugned order is based on true facts and has been passed in accordance with law, the same deserves to be upheld. The writ petition is misconceived which is liable to be dismissed.

It is a matter of record that petitioner was 42 years old and 10th class pass. He was owning 1½ acres land in the village. Respondent No.3 was 36 years old and claimed to have passed 8th class. He was owning 2½ acres land in the village. Petitioner was found involved in a criminal case bearing FIR No. 71 dated 4.4.2005. At the time of passing the order dated 7.1.2010 by the District Collector, Ambala, petitioner was facing the abovesaid criminal charge. Any acquittal from the criminal charge, as sought to be argued by learned counsel for the petitioner, at a later stage, would be of no consequence, particularly when no such adverse record was pointed out against respondent No.3 at the time of his appointment as Lambardar by the Collector vide order Annexure P-1. Further, alleged

judgment of acquittal has not been placed on record of this case, for the reasons best known to the petitioner.

Feeling aggrieved against the abovesaid order passed by the District Collector, petitioner approached the Commissioner by way of an appeal who illegally set aside the order passed by the Collector vide Annexure P-2. A bare perusal of the order passed by the Commissioner, Ambala Division, would show that he has exceeded his jurisdiction, while recording his opinion that petitioner was a better candidate than respondent No.3.

It is the settled proposition of law that higher revenue authorities should not upset the choice of Collector in the matter of appointment of Lambardar until and unless the order passed by the Collector is found suffering from any patent illegality or perversity. No such illegality or perversity in the order of the Collector has been pointed out by the Commissioner, while passing the order Annexure P-2. The glaring illegality committed by the Commissioner was rightly set right by the Financial Commissioner vide impugned order dated 6.1.2015 (Annexure P-3) and the same deserves to be upheld.

The impugned order passed by the Financial Commissioner, though not contains detailed reasons in support thereof, yet the Financial Commissioner has referred and rightly followed the settled proposition of law that choice of the Collector is considered final in the matter of Lambardar unless his order is suffering from illegality or perversity. Having said that, this Court feels no hesitation to conclude that the Financial Commissioner committed no error of law, while passing the impugned order 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 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 abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

23.7.2016
Ak Sharma

Whether speaking/reasoned/non-speaking

Whether reportable: Yes/No.