

CWP-16251-2014

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

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Date of Decision: 15.03.2016

Ram Parkash

... Petitioner(s)

Versus

The Financial Commissioner, Revenue (Appeals-II), Punjab and others

... Respondent(s)

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

- 1) Whether Reporters of the 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 ?

Present: Mr. Arun Takhi, Advocate,
for the petitioner.

Mr. B.M.Vinayak, DAG, Punjab.

Mr. S.S.Hira, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J.

Instant writ petition has been filed under Articles 226/227 of
the Constitution of India for setting aside the order dated 25.10.2013
(Annexure P-17) passed by respondent No.1-Financial Commissioner,

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Revenue (Appeals-II), Punjab whereby revision filed by respondent No.4 has been accepted and he has been appointed as Lambardar.

Brief facts of the case are to the effect that on creation of a new post of Lambardar (SC) of village Thathal, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, six persons including the petitioner and respondent No.4 submitted their applications. The Naib Tehsildar, Hoshiarpur recommended the name of Gurdial Chand and forwarded the case to the Tehsildar, Hoshiarpur who forwarded the case to the Sub Divisional Magistrate, Hoshiarpur. The Sub Divisional Magistrate, Hoshiarpur recommended the name of Gurdial Chand and forwarded the case to the District Collector, Hoshiarpur. Out of six candidates, three withdrew their applications and ultimately three i.e. Gurdial Chand, petitioner and respondent No.4 were left in the fray. The Collector after appreciating the comparative merits of the candidates found the petitioner to be suitable for the post of Lambardar vide order dated 28.02.2006 (Annexure P-1). Against that, Gurdial Chand and respondent No.4- Hari Dev filed separate appeals before the Commissioner, Jalandhar who vide order dated 05.09.2006 (Annexure P-2) upheld the order of the District Collector and dismissed the appeals being devoid of merit. Feeling aggrieved, respondent No.4 filed revision before the Financial Commissioner, who vide order dated 24.09.2008 (Annexure P-4)

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accepted the same and appointed respondent No.4 as Lambardar. Against that, the petitioner filed CWP-10234-2009 before this Court which was partly allowed and matter was remanded to the Financial Commissioner to decide the case afresh, vide order dated 09.08.2010 (Annexure P-11). In pursuance of the remand order, the Financial Commissioner decided the revision afresh and appointed respondent No.4 as Lambardar vide order dated 18.05.2011 (Annexure P-13). Against that, the petitioner filed CWP-22259-2011 which was disposed of vide order dated 23.07.2012 with a direction to the Financial Commissioner to decide the matter afresh again on the basis of material on record. In pursuance of the said order, the Financial Commissioner again decided the revision and appointed respondent No.4 as Lambardar vide impugned order dated 25.10.2013 (Annexure P-17). Hence, this writ petition.

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

Learned counsel for the petitioner has vehemently contended that the petitioner is more meritorious than respondent No.4 and the Collector has rightly appointed him Lambardar of the village. The matter came upto this Hon'ble Court twice earlier and the case was remanded time and again. He further contended that choice of the Collector cannot be lightly set aside and the impugned order dated 25.10.2013 (Annexure P-17) is liable to be set aside.

Per contra, learned State counsel vehemently contended that

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the parties have been litigating since 2005. It is a third round of litigation and the parties have been approaching the Financial Commissioner and this Court time and again. In such circumstances, he contended that fresh applications should be invited so that a suitable person may be appointed Lambardar.

Learned counsel for respondent No.4 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned order which is legal and valid. Respondent No.4 is a resident of village Thathal and it has been wrongly mentioned that he is doing tailoring work in village Bassi Gulam Hussain. In a criminal complaint, charges have been framed against the petitioner under Sections 166/465/471/120-B IPC on 16.10.2013, therefore, he cannot be appointed Lambardar.

I have considered the rival contentions of learned counsel for the parties.

Admittedly, as per the report of Sub Divisional Officer (C), Hoshiarpur, respondent No.4 was running a tailoring shop in village Bassi Gulam Hussain at the relevant time, when his case for the post of Lambardar was considered. So far as the petitioner is concerned, charges have been framed against him in a criminal complaint. This fact has not been denied by the petitioner. Moreover, the petitioner and respondent No.4 have crossed the age of 60 years. In view of above, this Court is of the view that fresh applications be invited for the post of Lambardar. Accordingly, the orders passed by all the revenue

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authorities are set aside and the Collector is directed to invite fresh applications within a period of two months from the date of receipt of copy of this order and thereafter proceed in accordance with law.

Disposed of in the aforementioned terms.

15.03.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge