IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14713 of 2016
Date of decision: 26.07.2016

Harminder Singh

... Petitioner

Vs.

Financial Commissioner, Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ramneek Vasudeva, Advocate
for the petitioner.

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RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 21.04.2016 (Annexure P-5) passed by the Financial Commissioner, Punjab, whereby he upheld the order dated 03.07.2015 (Annexure P-4) passed by Commissioner, Rupnagar Division, Rupnagar and also the order dated 15.07.2013 (Annexure P-3) passed by District Collector, Rupnagar, vide which respondent No.4 was appointed as Lambardar.

Learned counsel for the petitioner submits that petitioner was much better placed candidate for the post of Lambardar than respondent No.4. The respondent authorities have proceeded on a wholly misconceived approach, while passing the impugned orders. The comparative merits of both the candidates were not appreciated in the correct perspective. He refers to a communication dated 23.12.2014 (Annexure P-8), to contend that Forest Department imposed fine on the father of respondent No.4 for illegally cutting some trees, which reflects against him. So far as the attachment of the land owned by father of the petitioner was concerned, that had been got redeemed by the petitioner much before passing of the impugned order by the District Collector. In support of his contentions, learned counsel for the petitioner places reliance on three judgments of this Court in **Darshan Singh Vs. Financial Commissioner (appeals I), Punjab and others, 2009 (4) RCR (Civil) 387, Pishora Singh Vs. State of Punjab and others, 2015 (2) RCR (Civil) 344** and **Major Singh Vs. Financial Commissioner Revenue, Punjab and others, 2016 (2) RCR (Civil) 663.** He prays for setting aside the impugned orders, by allowing the present writ petition.

After hearing the learned counsel for the petitioner at considerable length, careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that all the three impugned orders contained in Annexures P-3, P-4 and P-5 passed by the revenue authorities deserve to be upheld, because the same have been found based on cogent findings, which are duly supported by sound reasons. Writ petition having been found without any merit, is liable to be dismissed.

A combined reading of all the three impugned orders passed by the District Collector, Commissioner and the Financial Commissioner contained in Annexures P-3, P-4 and P-5 would make it crystal clear that each and every relevant aspect of the matter was properly considered and appreciated, before recording concurrent findings of fact. Finally, the Financial Commissioner has rightly observed that it is the settled proposition of law that choice of Collector in the matters of appointment of Lambardar cannot be upset until and unless the impugned order passed by the Collector is found suffering from patent illegality or perversity. Financial Commissioner has not committed any error of law by saying so, because that is the settled proposition of law.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in either of the impugned orders. Comparative merits of both the candidates were rightly considered and appreciated by the Collector, before recording the cogent findings which have been found duly supported by sound reasons. One of the claims of the petitioner was hereditary claim, which is no more available to him. Both the candidates were found almost at par with regard to their age and education. Learned counsel for the petitioner wanted this Court to draw an adverse inference against respondent No.4 on the basis of a communication (Annexure P-8), whereby the Forest Department allegedly imposed some fine on the father of respondent No.4. If any mistake was committed by father of respondent No.4, he cannot be made to suffer for the same. Neither any ineligibility or disqualification has been pointed out in the candidature of respondent No.4 at the hands of the petitioner nor any such disqualification was noticed by either of the three revenue authorities, while passing the impugned orders. Once the Collector has come to a definite conclusion that respondent No.4 was more suitable candidate than the petitioner, his order was rightly upheld by the Commissioner as well as Financial Commissioner, because the same was not found suffering from any patent illegality or perversity.

Coming to the judgments relied upon by learned counsel for the petitioner, there is no dispute about the observations made therein. However, on perusal of the cited judgments, none of them has 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 even 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.**

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 since none of the impugned orders passed by all the three revenue authorities have been found suffering from any patent illegality or perversity, the same deserve to be upheld. The writ petition has been found wholly 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

26.07.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No