

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.14890 of 2016
Date of decision:27.7.2016**

Hakam Singh

...Petitioner

Versus

Financial Commissioner (Revenue), Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Anoop Singla, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 3.11.2015 passed by the Financial Commissioner (Revenue), Punjab, (Annexure P-4), whereby orders of Commissioner as well as District Collector, appointing respondent No.4 as Lambardar were upheld, petitioner has approached this Court by way of instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari for quashing the impugned orders.

Learned counsel for the petitioner submits that petitioner was a better candidate than respondent No.4, but the respondent authorities have failed to appreciate this material aspect of the matter, while passing their respective impugned orders. Other side unnecessarily raised the issue of alleged involvement of the petitioner in a criminal case, wherein petitioner never faced any criminal trial and all the accused therein had already been acquitted. Petitioner was working as Deed-Writer and it was not difficult for him to be available for the villagers, but the District Collector drawn an adverse inference against the petitioner, while adopting an illegal approach

in this regard. He prays for setting aside the impugned orders 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 since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserve to be upheld. The writ petition, having been found without any merit, is liable to be dismissed, for the following more than one reasons.

A bare combined reading of all the three impugned orders would show that the respondent authorities have examined, discussed and appreciated each and every aspect of the matter, before recording their cogent findings, which have been duly supported by sound reasons. It is a matter of record that candidature of respondent No.4 was recommended by Tehsildar as well as SDM Dharamkot, for appointment to the post of Lambardar. Although the recommendations made by lower revenue authorities may not be binding on the District Collector at the time of appointment of Lambardar, yet the same would have some persuasive value.

Availability of Lambardar to the residents of the village is one of the relevant considerations for appointing a Lambardar. The District Collector has rightly observed that it would be difficult for the petitioner to remain available to the residents of the village, as he was doing the work of Document writer. On the other hand, respondent No.4 would be available to the residents of the village. In addition to that, he was found having working

experience to his credit. The District Collector has rightly not taken into consideration the factum of alleged involvement of the petitioner in the criminal case. However, since respondent No.4 was found having clear edge over the petitioner, he was rightly appointed by the District Collector vide his order dated 29.5.2012 (Annexure P-1).

In the appeal filed by the petitioner, the Commissioner Ferozepur Division, Ferozepur reconsidered the comparative merits of both the candidates, but he did not find any patent illegality or perversity in the impugned order passed by the District Collector and the appeal of petitioner was rightly dismissed vide impugned order dated 30.5.2013 (Annexure P-2). The matter was again considered by the Financial Commissioner in the revision petition filed by the petitioner but since the orders passed by the District Collector as well as the Commissioner were found having been passed strictly in accordance with law, the same were rightly upheld, while passing the order dated 3.11.2015 (Annexure P-4).

The Financial Commissioner rightly referred the findings recorded by the Commissioner, before arriving at his definite conclusion. The relevant part of the impugned order passed by the Financial Commissioner read as under:-

“I have perused the impugned order which describes all the relevant facts in detail including the criminal case pending against appellant and concludes as follows:-

“...The impugned order of the District Collector, Moga reveals that the appellant works as Document Writer, and as such he will not be available to the villagers for their day to day work. On the other hand, Kikar Singh,

respondent, is the son of deceased Lambardar, and generally remains present in the village. He has also experience of Lambardari work. His name has also been recommended by the Tehsildar and S.D.M., Dharamkot. The learned District Collector, Moga, found the respondent as most suitable for the post of a Harijan Lambardar. He, therefore, vide his order dated 29.5.2012 has rightly appointed the respondent as Harijan Lambardar of the village. I do not find any illegality or perversity in the impugned order of the District Collector, Moga.”

It is settled law that a Collector's order appointing a Lambardar should be interfere with by an appellate or revisioning authority only if it is shown to be illegal or perverse. The revisionary authority is not to substitute its judgement for that of the Collector in so far as relative merits of candidates are concerned, because as the appointing authority the Collector is best place to adjudge the same. I agree with the opinion of the Commissioner in the impugned order and find that the Collector's order is well-reasoned and assesses the relevant facts. Petitioner has failed to point out any illegality or perversity in it, hence, the petition is dismissed in limine.”

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 passed by all the three revenue authorities, wherein they

have recorded concurrent findings of fact, because of which all the three impugned orders deserve to be upheld. It is not pleaded nor argued case on behalf of the petitioner that he was not granted due opportunity of being heard at any stage of the litigation. Further, no prejudice of any kind, whatsoever, has been shown to have been caused to the petitioner.

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 the impugned orders passed by all the three revenue authorities have been found based on cogent findings, the same deserve to be upheld. The instant petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

27.7.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No