

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No.15394 of 2016
Date of Decision : 2.8.2016

Bagicha Singh

.....Petitioner

Vs.

Financial Commissioner (Appeals), Punjab and othersRespondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. R.S. Chauhan, Advocate for the petitioner.

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RAMESHWAR SINGH MALIK, J

Instant writ petition is directed against the impugned order dated 3.2.2016 passed by the Financial Commissioner (Appeals), Punjab, whereby he dismissed the revision petition filed by the petitioner and the orders passed by the Commissioner as well as District Collector, appointing respondent no.4 as Lambardar, were upheld.

Learned counsel for the petitioner submits that petitioner was a better candidate for the post of Lambardar. He was younger in age than respondent no.4. Petitioner was owning sufficient land. He further submits that mere involvement of the petitioner in some criminal case would not disentitle him for appointment to the post of Lambardar. Taking objection regarding the candidature of respondent no.4, learned counsel for the petitioner submits that he was found in illegal possession of the panchayat land. In this regard, he refers to an order dated 6.8.2015 passed by the Chief Sales Commissioner, Kapurthala at page 8 of the paper book. He prays for setting aside the impugned orders, by allowing the present writ petition.

Having heard 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 the impugned orders passed by all the three revenue authorities have been found perfectly in order, having been passed on the basis of true facts and in accordance with law, because of which the same deserve to be upheld. The writ petition is without any merit, which is liable to be dismissed, for the following more than one reasons.

A bare combined reading of all the three orders passed by the revenue authorities would show that each and every relevant aspect of the matter has been examined, considered and appreciated in the correct perspective, before passing the impugned orders. The District Collector before passing his impugned order dated 1.8.2013 (Annexure P-1) discussed the comparative merits of all the candidates. Respondent no.4 was found enjoying clean record, whereas the petitioner was found involved in a criminal case. Although, learned counsel for the petitioner has tried to explain that the said criminal case had been disposed of in favour of the petitioner, yet no order is available on record, which might have been passed by the court of competent jurisdiction, giving a clean chit to the petitioner.

So far as the allegation levelled by the petitioner against respondent no.4, regarding alleged illegal possession on the gram panchayat land, the same has been found factually incorrect. In fact, learned counsel for the petitioner has tried to correlate the issue of allotment with illegal possession. Both the issues are entirely different. Neither any order has been found on record nor any such order has been shown to this court at the time of hearing, as well, which may even remotely suggest that any

competent authority found respondent no.4, as a matter of fact, in illegal possession of any land, including owned by the gram panchayat. Having said that, this court feels no hesitation to conclude that the respondent revenue authorities committed no error of law, while passing the impugned orders and the same deserve to be upheld, for this reason as well.

It is the settled proposition of law that choice of Collector, in the matters of appointment of Lambardars is not to be disturbed by the higher revenue authorities, until and unless the order passed by the Collector is found suffering from patent illegality or perversity. In the present case, Commissioner as well as Financial Commissioner have rightly upheld the order passed by the District Collector. Learned counsel for the petitioner also could not point out any patent illegality or perversity in either of the three orders passed by the respondent revenue authorities and the same deserve to be upheld for this reason also.

The operative part of the impugned order dated 3.2.2016 passed by the Financial Commissioner, which deserves to be noticed here, reads as under :-

“In the instant case the order of the Ld. Commissioner is quite clear he has observed that the allegations levelled by the Appellate against the respondent for the first time. He has also observed that allegation of default of water bill has been taken up first time in the appeal. Admittedly by the counsel for the petitioner this is not an issue because bill has already been deposited. The Ld. Commissioner has also not noted any illegality in saying that land allotted to the present respondent is violative of any provision of law. I have also gone through

the orders of the District Collector which is a detailed order. He has observed that respondent is intelligent candidate for the post of Lambardar because of his age, education and land holding. In addition he has also observed that he is son of Ex.-Lambardar and has worked as Sarbrah Lambardar. The Collector also compared merits and demerits of all other candidates and after that he came to the conclusion that the respondent be appointed as Lambardar. A perusal of the order of the Ld. Commissioner and District Collector nowhere suggests that by any means order of the District Collector be called perverse. During the argument an issue of illegal conveyance deed of Panchayat Land also came up which to my mind is purely an allegation because if conveyance deed is illegal the remedy lies with the civil court. Comparison of merits argued do not show much difference between two candidates. For appointment of Lambardars the view of field functionaries, especially of District Collector has to be given weightage as they are closer to ground and are in better position to assess eligibility for such appointments. Unless it comes out that the order of the District Collector is completely illegal or perverse, it should be weighed with positive consideration.

Keeping in view these facts I have considered opinion that no illegality exists in the orders of the District Collector and District Collector has appointed respondent as Lambardar after weighing all the relevant issues and on merits. In view of

this the present appeal is dismissed.”

A close perusal of the above said impugned orders passed by the respondent authorities would show that all the three impugned orders are based on cogent findings, which have been found duly supported by sound reasons. Further, no prejudice of any kind, whatsoever, has been shown to have been caused to the petitioner, which may warrant interference at the hands of this court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

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 the 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.

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

2.8.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned/non-speaking

Whether reportable: Yes/No