

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

Civil Writ Petition No. 15660 of 2016

Date of Decision: 11.8.2016

Bachittar Singh

.....Petitioner

Vs.

Financial Commissioner, Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Instant writ petition is directed against order dated 28.3.2016 passed by the Financial Commissioner, Punjab, whereby he accepted the revision filed by respondent No.2 and ordered restoration of the order passed by the District Collector, Sangrur, appointing respondent No.2 as Lambardar.

Learned counsel for the petitioner submits that petitioner was better placed than respondent No.2. However, District Collector failed to appreciate true facts of the case, while appointing respondent No.2 as Lambardar, vide order dated 12.9.2012 (Annexure P-1). Challenging the

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order passed by the Financial Commissioner, learned counsel for the petitioner submits that since the Financial Commissioner also proceeded on a misconceived approach, while not properly appreciating the comparative merits of both the candidates, the impugned order is liable to be set aside. He prays for setting aside the impugned order, by allowing the present writ petition.

Having heard the learned counsel for 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 neither Collector nor Financial Commissioner committed any error of law, while passing their respective impugned orders and 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 perusal of the order passed by the Collector would show that it was a self contained and well justified order, on facts as well as in law. The Collector has minutely discussed and considered comparative merits of both the candidates, at page 14 of the paper book. Respondent No.2 was rightly found better placed candidate for the post of Lambardar than the petitioner. Respondent No.2 was 65 years old and 8th class pass, whereas the petitioner was 67 years old and 7th class pass. By now, petitioner is more than 70 years old. Two lower revenue officers recommended name of respondent No.2 whereas one officer recommended name of the petitioner. After considering all the relevant aspects of the matter, District Collector, Sangrur, rightly appointed respondent No.2 as Lambardar, vide his order Annexure P-1 and the same deserves to be upheld.

Petitioner filed his appeal before the Commissioner, who illegally set aside the order passed by the District Collector, vide order dated 14.5.2013 (Annexure P-3), remanding the case to the District Collector, with a direction to start *de novo* process for filling up the post of Lambardar, which was patently illegal order.

Feeling aggrieved against the order passed by the Commissioner, both the candidates filed their separate revision petitions before the Financial Commissioner. Consequently, revision petition filed by the petitioner was dismissed whereas the revision petition filed by respondent No.2 was accepted. The Financial Commissioner again considered and appreciated comparative merits of both the candidates in the correct perspective, holding that respondent No.2 was rightly appointed by the Collector. Financial Commissioner set aside the order passed by the Commissioner, thereby restoring order dated 12.9.2013 passed by the District Collector.

A bare perusal of the impugned order passed by the Financial Commissioner would show that his order is based on true facts of the case. The impugned order is also as per the relevant provisions of law. Neither he has exceeded his jurisdiction nor he has committed any other illegality, while passing the impugned order and the same deserves to be upheld.

It is the settled proposition of law that choice of the District Collector, in the matters of appointment of Lambardar, should not be disturbed by the higher revenue authorities, until and unless order passed by the District Collector has been found suffering from patent illegality or perversity. Neither any such patent illegality or perversity has been pointed out in the impugned order by the learned counsel for the petitioner, nor any

prejudice has been shown which might have been caused to the petitioner by passing the impugned order, thus, it deserves to be upheld for this reason also.

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 this 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 abovesaid observations made, present writ petition stands dismissed, however, with no orders as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

11.8.2016
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Whether speaking/reasoned Yes/No
Whether reportable: Yes/No