IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 17160 of 2016
Date of Decision: 24.8.2016

Sodhi Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Satnam Chauhan, Advocate
for the petitioner.

****

RAMESHWAR SINGH MALIK J. (ORAL)

Instant writ petition is directed against the order dated 5.12.2014 (Annexure P-6) passed by the Financial Commissioner, Punjab-respondent No.2, whereby he directed the lower revenue authorities to invite fresh applications to fill up the post of Lambardar, as the petitioner was not found suitable candidate for the post of Lambardar.

Heard learned counsel for the petitioner.

During the course of hearing, when confronted as to how the petitioner would be available to the residents of the village, once he would be running his business in a place at a distance of 8 kms from the village, learned counsel for the petitioner refers to the statements at Annexures P-7 and P-8 made by his workers.

It is a matter of record that post in question was meant for village Chak Nariyal. It is also not in dispute that petitioner is running a workshop at village Mahilpur, which is situated at a distance of 8 kms, as per the stand taken by learned counsel for the petitioner, although it is recorded 12 kms in the order dated 13.9.2010 at page 47 of the paper book, which was passed by the Commissioner at Annexure P-5. After passing of the impugned order, petitioner got the abovesaid two statements (Annexures P-7 and P-8) from his workers, which is clearly an afterthought, besides being a handiwork of the petitioner himself. Having said that, this Court feels no hesitation to conclude that the Financial Commissioner, committed no error of law, while passing the impugned order and the same deserves to be upheld.

Learned counsel for the petitioner places reliance on two judgments of this Court in **Duli Chand Vs. State of Haryana and another, 2013 (1) RCR (civil) 1010** and **Gurlal Singh Vs. Financial Commissioner (Revenue), 2008 (2) HRR 517,** to contend that if a person is working at some reasonable distance, that would not disentitle him from being a Lambardar.

So far as judgments relied upon by learned counsel for the petitioner are concerned, there cannot be any dispute about the observations made therein. However, on a careful perusal of the cited judgments, the same have not been found of any help to the petitioner, being distinguishable on facts. It is the settled principle 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 circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundara Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

A bare reading of the two statements contained at Annexures P-7 and P-8 as well as certificate Annexure P-10, would show that all these three statements were undated as dates have been put by hand later on at pages 54, 55 and 57 of the paper book, meaning thereby that petitioner procured these documents after rejection of his candidature, which speaks volumes about the conduct of the petitioner. Commissioner also found him in active politics, referring to the photographs on record. Further, it does not appeal to reason how he will spare time at the cost of his business, which is being run by him from a different village.

It has gone undisputed before this Court that petitioner is running a workshop and he has employed some workers. Two of them have given statements Annexures P-7 and P-8 in favour of the petitioner but that does not advance his case in any manner, rather, it goes against him. It is so said, because if any resident of the village would require services of the Lambardar, petitioner would not be physically available, because his place of work is situated at a distance of at least 8 kms from the village. Had the place of business of the petitioner been situated in his own village, it might have made some difference. Further, once other eligible candidates are available in the village, there is no compulsive necessity for the revenue authorities to appoint such a person, like the petitioner, as Lambardar, who will not be available, as and when required.

Since the District Collector fell in serious error of law, while completely misreading and misunderstanding the abovesaid relevant considerations, his order was suffering from patent illegality and perversity, which has been rightly set aside. The only order which is factually correct and legally sustainable is the impugned order passed by the Financial Commissioner and the same deserves to be upheld.

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

(RAMESHWAR SINGH MALIK)
JUDGE

24.8.2016
Ak Sharma

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