

CWP No.7370 of 2010

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

CWP No.7370 of 2010
Date of decision: 05.04.2016

Kashmir Singh

....Petitioner

Versus

Financial Commissioner Revenue, Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Bikramjit Arora, Advocate, for the petitioner.
B.S. Cheema, DAG, Punjab.
Mr. M.K. Bhatnagar, Advocate, for respondent No.3.

PARAMJEET SINGH DHALIWAL, J.

Instant civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 05.06.2008 (Annexure P-10) passed by District Collector, Amritsar, appointing respondent No.3 – Jagir Singh as Lambardar of Village Kaler Ghuman, Tehsil Baba Bakala, District Amritsar, and order dated 07.01.2010 (Annexure P-15) passed by Financial Commissioner, Revenue, Punjab, whereby revision petition filed by respondent No.3 has been allowed and order passed by District Collector has been upheld and that of the Commissioner has been reversed.

Brief facts of the case are that to fill up the vacancy caused on account of death of Kartar Singh, Lambardar of Village Kaler Ghuman,

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Tehsil Baba Bakala, District Amritsar, applications were invited from interested persons by making publication/proclamation in the Village after obtaining necessary sanction from the Collector. After completing formalities, matter came up for consideration before the Collector. The Collector after appreciating the comparative merit of the candidates found Jagir Singh – respondent No.3 to be fit and suitable candidate and vide impugned order dated 05.06.2008 (Annexure P-10) appointed him as Lambardar of the Village. Petitioner – Kashmir Singh filed an appeal before the Commissioner, Jalandhar Division, Jalandhar. The Commissioner vide order dated 24.08.2009 (Annexure P-12) accepted the appeal filed by the petitioner and set aside the order passed by District Collect. Aggrieved against the order of the Commissioner, respondent No.3 filed revision before the Financial Commissioner, which has been accepted vide order dated 07.01.2010 (Annexure P-15), order of the Commissioner has been set aside and that of the Collector has been upheld. Hence, instant writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that the orders passed by Collector as well as Financial Commissioner are erroneous, perverse and against the settled principles of law, thus, not sustainable in the eyes of law. Learned counsel for the petitioner contended that petitioner is more qualified than respondent No.3 and possesses more land than respondent No.3 in the Village. Respondent

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No.3 has been wrongly extended the benefit of hereditary claim.

Per contra, learned counsel for respondent No.3 contended that hereditary claim is one of the considerations for appointment of Lambardar when other merit is equal. Respondent No.3 is sufficiently educated and holds sufficient landed property in the Village. Learned counsel for respondent No.3 further contended that respondent No.3 is a better choice being a more disciplined and dutiful person. Learned counsel for respondent No.3 further contended that it is settled principle of law that choice of the Collector cannot be lightly set aside. Therefore, present writ petition is liable to be dismissed with costs.

I have considered the contentions raised by learned counsel for the parties.

The Hon'ble Supreme Court of India in the case of ***Mahavir Singh Vs. Khiali Ram & others, 2009(3) SCC-439, Lila Ram Vs. Asa Ram, 1955 Lahore Law Times-29*** followed by Division Bench of this Court in the case of ***Phool Kumar Vs. State of Haryana and others, 2010(2) RCR (Civil) 819***, held that the choice of the District Collector cannot be lightly set aside.

In ***Mahavir Singh's*** case (supra) the Supreme Court of India has observed that there should be no interference with the choice made by the Collector in the matter of appointment of Lambardar even if two views are possible. It is only the prerogative of the Collector to compare the merits of the candidates for appointment to the post of Lambardar. The Commissioner reversed the order of the District Collector and

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instead of remanding the case back to the Collector, himself appointed the petitioner as Lambardar. This approach of the Commissioner is against settled law. The Financial Commissioner has categorically held that Lambardari belongs to Patti Ghuman whereas petitioner (herein) is the resident of Kaler Patti. Respondent no.3 being son of deceased Lambardar has preferential right to be appointed as Lambardar. The Financial Commissioner has rightly upset the order of the Commissioner and upheld the order of the Collector. There are concurrent findings recorded by the Collector and the Financial Commissioner.

Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order passed by the Collector. The findings of the Collector have been affirmed by the Financial Commissioner.

In view of the above discussion, the present writ petition fails.

Dismissed.

No order as to costs.

(Paramjeet Singh Dhaliwal)
Judge

April 05, 2016
R.S.