

Civil Writ Petition No. 5580 of 2011

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

Civil Writ Petition No. 5580 of 2011

Date of Decision: 22.10.2016

Gurpreet Singh

.....Petitioner

Vs.

Financial Commissioner, Revenue, Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Kuldeep Singh, Advocate for
Mr. Sandeep Bansal, Advocate
for the petitioner.

Mr. Yatinder Sharma, Additional A.G. Punjab.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 1.12.2010 (Annexure P-5), passed by the Financial Commissioner, (Appeals-II), Punjab, whereby he dismissed the revision filed by the petitioner and upheld the orders dated 19.2.2009 (Annexure P-3) passed by the Commissioner, Jalandhar Division and 2.12.2008 (Annexure P-1), passed by District Collector, Hoshiarpur, thereby appointing Ajaib Singh-respondent No.2 as Lambardar.

Writ petition was admitted for regular hearing. Petitioner sought early hearing which was declined at that point of time, vide order dated 8.8.2011. Case was referred to the Permanent Lok Adalat, working in this court, but the parties could not arrive at an amicable settlement.

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Petitioner again filed application bearing CM No. 15775-CWP-2015, for placing on record additional affidavit and also for early hearing of the writ petition. Vide order dated 7.4.2016, additional affidavit of the petitioner was taken on record and registry was directed to list the writ petition for regular hearing in the month of July, 2016. Accordingly, case was listed for regular hearing in the regular list for the month of July.

Heard learned counsel for the parties.

A bare perusal of all the three orders would show that the revenue authorities, i.e. District Collector, Commissioner and Financial Commissioner recorded their concurrent findings of facts and it was respondent No.2 who was found having clear edge over the petitioner for appointment to the post of Lambardar. When the impugned order 2.12.2008 (Annexure P-1) was passed by this District Collector, petitioner was 43 years of age, whereas respondent No.2 was 34 years of age. Petitioner was matriculate whereas respondent No.2 was 10+2 pass. Both these candidates were qualified for the post of Lambardar. Both were owning land. Respondent No.2 was also member panchayat, as pointed out by the petitioner himself in para 4 of the writ petition. Lower revenue authorities, i.e, Tehsildar and SDM, Hoshiarpur, recommended the name of respondent No.2 for the post of Lambardar.

After giving due consideration to the comparative merits of both the candidates, learned District Collector arrived at a just conclusion that it was respondent No.2 who was more suitable and deserving than the petitioner for appointment to the post of Lambardar. Accordingly, respondent No.2 was appointed as Lambardar, vide order dated 2.12.2008 (Annexure P-1). Petitioner filed his appeal which came to be dismissed by

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the Commissioner, Jalandhar Division, vide order dated 19.2.2009 (Annexure P-3). This order was further challenged by the petitioner before the Financial Commissioner by way of ROR No. 394/2009, but the same was also dismissed, vide impugned order dated 1.12.2010 (Annexure P-5).

Before passing his well reasoned order, Financial Commissioner re-considered merits of both the candidates and found that the orders passed by the District Collector as well as Commissioner were not suffering from any patent illegality or perversity. Relevant operative part of the impugned order passed by the Financial Commissioner, which deserve to be noticed here, as under:-

“I have considered the revision petition as well as written arguments filed by the counsel for the respondent and also gone through the order of the lower courts minutely. I find the District Collector has rightly appointed respondent Ajaib Singh as Lambardar on the basis of his better merits and the recommendations made by the Tehsildar and Sub Divisional Magistrate, Hoshiarpur in his favour. Further the Commissioner has upheld the same finding no infirmity/perversity in the order of the Collector. Moreover it is settled law that appointment made by District Collector further confirmed by the Commissioner should not be interfered unless it suffered from any perversity. In this case, I find no perversity in the order of lower revenue courts. The same are upheld. Revision petition is accordingly dismissed in limine.”

It is the settled proposition of law that the order of the District Collector, in the matters of appointment of Lambardar, is not to be upset lightly by the higher revenue authorities unless the order passed by the District Collector is suffering from any patent illegality or perversity. In the

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present case, no such illegality or perversity has been pointed by learned counsel for the petitioner. Further, no prejudice or substantial justice has been pointed out which might have been caused to the petitioner, by passing of the impugned orders.

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 the respondent revenue authorities have not been found suffering from any patent illegality or perversity, the same deserve to be upheld. Present writ petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

With the abovesaid observations made, present writ petition stands dismissed.

(RAMESHWAR SINGH MALIK)
JUDGE

22.10.2016
Ak Sharma

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