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

Civil Writ Petition No. 18888 of 2015 (O&M)
Date of Decision: 31.8.2016

Ranjit Singh

.....Petitioner

Vs.

Financial Commissioner (Revenue), Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. D.S. Brar, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

Mr. J.S. Cooner, Advocate
for respondent No.4.

Mr. Surinder Garg, Advocate
for respondent No.5.

****

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 13.1.2015 (Annexure P-3) passed by the Financial Commissioner (Revenue), Punjab-respondent No.1, whereby he upheld the orders passed by the Collector as well as Commissioner, appointing respondent No.4 as Lambardar.

Notice of motion was issued and in compliance thereof, written statement has been filed on behalf of respondent No.4, who is the only contesting respondent.

The only argument raised by learned counsel for the petitioner is that impugned order dated 15.6.2012 (Annexure P-1) was since passed by Additional Deputy Commissioner, who was not having the jurisdiction to appoint respondent No.4 as Lambardar, it was an order without jurisdiction. He further submits that since this question of law goes to the root of the cause and was not properly appreciated by the Commissioner as well as the Financial Commissioner, the impugned orders Annexures P-2 and P-3 are also liable to be set aside. In this regard, he places reliance on the provisions of Section 12 of the Punjab Land Revenue Act, 1887 ('the Act' for short).

Per contra, learned counsel for the State as well as learned counsel for private respondents submit that it was the petitioner himself who moved the application for transfer of the case pending before the District Collector. After accepting his application for transfer, the Commissioner, Faridkot Division, Faridkot-respondent no.2, having been left with no other option, transferred the case to ADC, Faridkot, for deciding the same, after hearing the parties. They pray for dismissal of the present writ petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, the impugned orders passed by the respondent revenue authorities deserve to be upheld. The writ petition is without any merit and the same is liable to be dismissed, for the following more than one reasons.

Since the solitary argument raised on behalf of the petitioner is based on the provisions contained in Section 12 of the Act, it would be appropriate to refer to Section 12 of the Act, which reads as under:-

> "**Power to distribute business and withdraw and transfer cases: -** (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.
>
> (2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.
>
> (3) An order under sub-section (1) or sub-section (2) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own Jurisdiction."

A bare perusal of Section 12 (2) of the Act would show that Commissioner, Faridkot Division, Faridkot-respondent No.2, has rightly exercised his jurisdiction, while allowing application for transfer moved by the petitioner. Since the Additional Deputy Commissioner was also one of the officers working under his control, the Commissioner committed no error of law, while transferring the case from the office of Collector to the office of Additional Deputy Commissioner of the same District. It is so said, because there was no other way-out left, as the District Collector of other District would not have the jurisdiction to deal with the case of appointment of Lambardar, pertaining to village of the parties which was falling in District Faridkot.

Further, it was the transfer application of the petitioner himself, which was allowed. Petitioner could not have been granted any more fair treatment than accepting his application and transferring the case to another authority working under the control of the Commissioner. Except the abovesaid technical aspect raised by learned counsel for the petitioner. He had nothing to argue on the merits of the case. In this view of the matter, it is unhesitatingly held that all the three revenue authorities have recorded concurrent findings of fact which have been duly supported by sound reasons and the same deserve to be upheld, for this reason also.

The relevant observations made by the Financial Commissioner in operative para 4 of his impugned order Annexure P-3, deserves to be noticed hereinabove and the same read as under-

> " I have heard the counsel for both the parties and perused the record. Counsel for petitioner argues that Additional Deputy Commissioner, Faridkot was not competent to appoint a lambardar since only the Deputy Commissioner can exercise powers of Collector in such cases. However, I find that in the present case the Commissioner had specially transferred the case to Additional Deputy Commissioner, Faridkot for a decision on an application filed by the petitioner. Counsel has failed to show any factual error in the Collector's order. I find it is a well reasoned order that weighs the merits of candidates and reconsider findings on all facts including alleged illegal omission. Hence, I agree with the Commissioner who records that:-
>
> > "It is also a settled law that choice of the Collector for appointment of Lambardar cannot be brushed aside until and unless the same suffers from any perversity or illegality, but in the present case, the appellant has failed to point out any such illegality or perversity, which may go to the root of the case. In these circumstances, I do not see any illegality or irregularity in the impugned order dated 15.6.2012 passed by the Collector (A.D.C.), Faridkot and as such the same is upheld and resultantly, this appeal is dismissed, being without any merit."

Since all the respondent revenue authorities have considered each and every relevant aspects of the matter before passing their respective impugned orders recording cogent findings, no fault can be found with either of the impugned orders. Further, it is also the settled proposition of law that choice of Collector, ADC in the present case, in the matter of appointment of Lambardar is not to be disturbed by the higher revenue authorities, unless order passed by the District Collector is found to be suffering from patent illegality or perversity.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned orders. Further, he could not show any prejudice 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 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.

31.8.2016 **(RAMESHWAR SINGH MALIK)**
Ak Sharma **JUDGE**

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