

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

Civil Writ Petition No. 18256 of 2016

Date of Decision: 5.9.2016

Sarabjit Singh

.....Petitioner

Vs.

Financial Commissioner (Animal Husbandry) Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Karanjit Singh Brar, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the impugned order dated 22.2.2013 (Annexure P-2) and review order dated 25.7.2014 (Annexure P-3) passed by the Financial Commissioner, Punjab, whereby revision petition filed by respondent No.4 was allowed and review application filed by the petitioner was dismissed, upholding the order dated 23.12.2009 passed by the District Collector and setting aside order dated 27.5.2010 passed by the Commissioner, petitioner has approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned orders.

Heard learned counsel for the petitioner.

When the post of Lambardar fell vacant in the village of the

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parties, process was started to fill up the said post. Petitioner and respondent No.4 contested for the post of Lambardar. After taking into consideration all the relevant factors, including merits and demerits of the candidates, District Collector came to the conclusion that respondent No.4 was the most suitable candidate for the post of Lambardar. Accordingly, respondent No.4 was appointed as Lambardar vide order dated 23.12.2009 passed by the District Collector, Ferozepur. Petitioner filed his appeal before the Commissioner, who accepted the same vide order dated 27.5.2010 (Annexure P-1) and remanded the case to the District Collector for fresh decision, after hearing both the parties. However, said order dated 27.5.2010 (Annexure P-1) was challenged by respondent No.4 before the Financial Commissioner by way of a revision petition, who accepted the same, setting aside the abovesaid order passed by the Commissioner and restoring the order passed by the District Collector, thereby appointing respondent No.4 as Lambardar. Dissatisfied, petitioner filed review application bearing Review No. 18 of 2013 before the Financial Commissioner, which came to be dismissed, vide impugned order dated 25.7.2014 (Annexure P-3), hence, this writ petition.

When the learned counsel for the petitioner was asked to give any justified explanation for the delay of more than two years, he had no answer and rightly so, it being a matter of record. Besides this, petitioner tried to justify filing of present writ petition at this belated stage, referring to FIR No. 51 dated 24.5.2016 registered against respondent No.4, contending that since he has suffered disqualification, he is liable to be removed from the post of Lambardar.

After giving thoughtful consideration to the contention raised,

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this Court is of the considered opinion that both the impugned orders passed by the Financial Commissioner have not been found suffering from any patent illegality or perversity and the same deserve to be upheld. The writ petition is without any merit which is liable to be dismissed. It is so said because after examining all the relevant factors, the District Collector appointed respondent No.4 as Lambardar. The Commissioner, Ferozepur Division, Ferozepur, fell in serious of law, while passing the order Annexure P-1, because he set aside the order passed by the District Collector without recording any reason much less cogent reasons. Thus, the Commissioner exceeded his jurisdiction, while passing patently illegal order. The order Annexure P-1 passed by the Commissioner was rightly set aside by the the Financial Commissioner, while allowing revision petition filed by respondent No.4. Since the review application was found without any merit, the same was rightly dismissed by the Financial Commissioner, vide impugned order Annexure P-3.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality in either of the impugned orders passed by the Financial Commissioner. So far as the order passed by the District Collector is concerned, it has not even been placed on record before this Court by the petitioner, for the reasons best known to him. Further, it is also the settled proposition of law that choice of Collector, in the matters 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 any patent illegality or perversity.

So far as registration of FIR No. 51 dated 24.8.2015 against respondent No.4 is concerned, this Court is not required to make any

comment on this issue, at this point of time. It would suffice to say that law will take its own course. Admittedly, this allegation against respondent No.4 was not available to the petitioner, at the time of passing of the order by the District Collector. Further, learned counsel for the petitioner could not show any prejudice which might have been caused to the petitioner by passing the impugned order, so as to enable this Court to exercise its writ jurisdiction under Articles 226/227 of the Constitution of India.

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 instant 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 order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

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