

**Civil Writ Petition No. 2424 of 2013**

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

**Civil Writ Petition No. 2424 of 2013**

**Date of Decision: 27.10.2016**

Surender Pal

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

**CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present : Ms. Amandeep Soni, Advocate  
for the petitioner.

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

Mr. H.K. Aurora, Advocate  
for respondent No.4.

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**RAMESHWAR SINGH MALIK J. (ORAL)**

Feeling aggrieved against the orders dated 30.8.2012 (Annexure P-3) passed by the Financial Commissioner, Punjab, as well as order dated 25.7.2011 (Annexure P-2), passed by the Commissioner, Jalandhar Division Jalandhar, whereby order dated 30.3.2010 (Annexure P-1), passed by the District Collector, Shaheed Bhagat Singh Nagar, appointing the petitioner as Lambardar was set aside, 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 order.

Notice of motion was issued and in the meantime, operation of the impugned orders were stayed. Short reply by way of counter affidavit dated 29.7.2013 was filed on behalf of respondents No. 1 to 3. Respondent

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No.4 has moved CM No. 7653-CWP-2013 for placing on record written statement. Application is allowed, as prayed for. CM stands disposed of.

Heard learned counsel for the parties.

A bare perusal of order passed by the District Collector would show that he considered comparative merits of all the contesting candidates for the post of Lambardar. Finally, six candidates were in the fray. Their merits were considered by the District Collector, starting from page 30 to 32 of the paper book. Petitioner was found 50 years of age, studied up to 5<sup>th</sup> class, was having pucca house in the village, having 22 marlas of land. He was a member of Cooperative Society for the last more than 10 years. He was also a member of School Welfare Committee. Thus, petitioner was found to be a social worker. On the other hand, respondent No.4 was 55 years of age. He had also studied up to 5<sup>th</sup> class. He was owning 3 acres of land and was bearing good character. Although an FIR came to be registered against respondent No.4, yet the said FIR would be of no consequence, because it was registered at a later point of time. This fact has not been disputed by learned counsel for the parties, as well.

When the abovesaid comparative merits of both these candidates were analysed critically, it leaves no manner of doubt that petitioner was having clear edge on respondent No.4. This was the reason that Sub Divisional Magistrate also recommended name of the petitioner for appointment to the post of Harijan Lambardar. The District Collector proceeded on purposive and constructive approach, while appreciating the comparative merits of both the candidates in the correct perspective, before passing his order dated 30.8.2010 (Annexure P-1), thereby appointing petitioner as Harijan Lambardar.

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The order passed by the District Collector came to be challenged by respondent No.4 and other candidates by way of as many as 5 appeals. The Commissioner, Jalandhar Division, Jalandhar, committed a serious error of law, while replacing the choice of District Collector by his choice and that too, without saying even a word about the merits of the petitioner. Thus, Commissioner acted without jurisdiction, while passing the impugned order dated 25.7.2011 (Annexure P-2).

Similarly, Financial Commissioner also miserably failed to appreciate the true factual aspect of the matter, while upholding the abovesaid order passed by the Commissioner (Annexure P-2). He also did not consider merits of the petitioner who had been appointed by the District Collector. Having said that, this Court feels no hesitation to conclude that Commissioner as well as Financial Commissioner committed serious errors of law, while passing their respective impugned orders, without referring to the merits of the petitioner.

Petitioner was admittedly younger in age and was a member of Cooperative Society for the last more than 10 years. He was also a member of School Welfare Committee. Since the petitioner was rightly found a social worker by the District Collector, who would be available throughout to the residents of the village, he was rightly found the most suitable candidate for the post of Harijan Lambardar. Under these circumstances, it can be safely concluded that the only order which deserves to be upheld, is the order passed by the District Collector and the impugned orders passed by the Commissioner as well as Financial Commissioner cannot be upheld.

In fact, Commissioner as well as Financial Commissioner misdirected themselves, while altogether ignoring the settled proposition of

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law that choice of the District Collector is not to be upset lightly by the higher revenue authorities unless the order passed by the District Collector is found suffering from patent illegality or perversity. In the present case, order passed by the District Collector has not been found suffering from any patent illegality or perversity, nor any such illegality has been pointed out by learned counsel for respondent No.4 before this Court as well. Since the impugned orders passed by the Commissioner as well as Financial Commissioner have been found suffering from patent illegality, the same were not sustainable.

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 opinion that since the order dated 25.7.2011 (Annexure P-2) passed by the Commissioner as well as 30.8.2012 (Annexure P-3) passed by the Financial Commissioner have been found suffering from patent illegality, the same are not sustainable and are hereby set aside. The writ petition deserves to be allowed.

Resultantly, with the abovesaid observations made, present writ petition stands allowed, however, with no order as to costs.

27.10.2016  
*Ak Sharma*

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

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