

CWP No.8577 of 2011

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

CWP No.8577 of 2011
Date of decision: 04.05.2016

Karambir

....Petitioner

Versus

State of Haryana 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. K.S. Sidhu, Sr. Advocate, with
Mr. G.S. Sidhu, Advocate, for the petitioner.
Mr. Sandeep S. Mann, Sr. DAG, Haryana.
Mr. Sudhir Hooda, Advocate, for respondent No.5.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

Instant civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 13.06.2007 (Annexure P-1) passed by Collector, Panipat, appointing respondent No.5 – Bijender as Lambardar of Village Mahawati, Tehsil Samalkha, District Panipat, and order dated 22.03.2011 (Annexure P-7) passed by Financial Commissioner, Haryana, whereby revision petition filed by respondent No.5 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

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account of death of Ratti Ram, Lambardar of Village Mahawati, Tehsil Samalkha, District Panipat, 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 Bijender – respondent No.5 to be fit and suitable candidate and vide impugned order dated 13.06.2007 (Annexure P-1) appointed him as Lambardar of the Village. Petitioner – Karambir filed an appeal before the Commissioner, Rohtak Division. The Commissioner vide order dated 18.07.2008 (Annexure P-2) 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.5 filed revision before the Financial Commissioner. Financial Commissioner vide order dated 28.04.2009 (Annexure P-3) remanded the case back to the Commissioner for fresh decision. After remand, the Commissioner appointed the petitioner as Lambardar of the Village vide order dated 13.11.2009 (Annexure P-4). Against the order dated 13.11.2009 (Annexure P-4), respondent No.5 filed revision petition before the Financial Commissioner. Financial Commissioner accepted the revision of respondent No.5, reversed the order passed by Commissioner and appointed respondent No.5 as Lambardar of the Village vide order dated 12.01.2010 (Annexure P-5). Aggrieved against the order passed by

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Financial Commissioner, petitioner filed CWP No.1636 of 2010 in this Court. This Court vide order dated 11.10.2010 (Annexure P-6) set aside the order dated 12.01.2010 and remanded the case back to Financial Commissioner for passing fresh order. After remand, revision petition filed by respondent No.5 has been accepted vide order dated 22.03.2011 (Annexure P-7), 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 meritorious than respondent No.5. Hereditary claim of the petitioner should have been considered.

Per contra, learned counsel for respondent No.5 contended that he is sufficiently educated and holds sufficient landed property in the Village. Respondent No.5 has motivated more persons for family planning and small saving schemes. Learned counsel for respondent No.5 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.

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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 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 respondent No.5 has motivated 52 persons for family planning and got deposited Rs.60.24 lacs in small savings and owns a holding of 28 kanals of land, which is comparatively better than Karambir. 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.

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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

May 04, 2016
R.S.