

Civil Writ Petition No. 23882 of 2016

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

**Civil Writ Petition No. 23882 of 2016
Date of Decision: 28.11.2016**

Nikka Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. N.S. Kandhola, Advocate
for the petitioner.

Mr. Vikas Mehsempuri, Advocate
for the caveator-respondent No.4

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 4.10.2016 (Annexure P-9) passed by the Financial Commissioner, Punjab, whereby he dismissed the revision petition filed by the petitioner and upheld the order dated 25.7.2013 (Annexure P-6) passed by the Commissioner, Patiala Division, Patiala and also order dated 27.4.2012 (Annexure P-2) passed by the District Collector, Ludhiana, appointing respondent No.4 as Lambardar.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that respondent No.4

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was not suffering from any disqualification for appointment to the post of Lambardar. His name was recommended by Naib Tehsildar, Machhiwara as well as Sub Divisional Magistrate, Samrala, for appointment to the post of the Lambardar. He was 10th class pass and had also passed Diploma in Cooperative Training Centre in the year 1982. He was having more land than the petitioner. His availability in the village has also not been disputed. As many as 124 persons of the village deposed in his favour whereas 63 deposed in favour of the petitioner. After considering the comparative merits of both the candidates, District Collector came to the definite conclusion that respondent No.4 was having a clear edge over the petitioner. Accordingly, respondent No.4 was appointed as Lambardar, vide order dated 27.4.2012 (Annexure P-2).

The relevant observations made by the District Collector in his order dated 27.4.2012 (Annexure P-2), which deserve to be noticed here, read as under:-

“After hearing the argument of the counsel and after examining the documents on record it is clear that candidate Paramjit Singh was 10th pass and he had passed Diploma in Cooperative Training Centre, Nabha in the year 1982. He has more land. He is Ex-member Panchayat and is President of the Gurudwara Sahib of the village for the last 12 years. He remains present in the village because of the Agriculture work. 124 persons of the village have recommended his name for appointment as Lambardar while 63 persons have recommended the name of the other candidates from

which it is clear that he is more popular in the village. Apart from this, Naib Tehsildar Machhiwara and Sub Divisional Magistrate, Samrala, has recommended his name for appointment as Lambardar considering him suitable candidate. Therefore, in view of the above facts, I have concluded that candidate Sh. Paramjit Singh is more suitable for appointment of Lambardar than the other candidate. Therefore, candidate Paramjit Singh son of Mohinder Singh is appointed as Lambardar of the village Khera, Tehsil Samrala, district Ludhiana in place of Sh. Sucha Singh deceased Lambardar son of Sh. Atma Singh. This case was kept reserved for orders on 20.4.2012 which has been pronounced today. The missal after completion the said for record.”

Learned counsel for the petitioner contented that the abovesaid order passed by the District Collector was based on factually incorrect report, because respondent No.4 was neither the Ex-member panchayat, nor he was the President of Gurudwara Sahib of the village. However, even if these facts are to be ignored, which were not only factors to be considered, respondent No. 4 was still having the preferential claim than the petitioner. Under the abovesaid peculiar facts and circumstances of the case, this Court feels no hesitation to conclude that District Collector committed no error of law, while passing the impugned order (Annexure P-2), appointing respondent No.4 as Lambardar and the same deserves to be upheld.

Similarly, Commissioner, Patiala Division, Patiala, rightly

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appreciated the facts in the correct perspective before passing his impugned order dated 25.7.2013 (Annexure P-6), upholding the abovesaid order passed by the District Collector. Again, Financial Commissioner was also well within his jurisdiction to pass the impugned order dated 4.10.2016 (Annexure P-9), dismissing the revision petition filed by the petitioner, because none of the impugned orders passed by the District Collector as well as Commissioner were found suffering from any patent illegality or perversity.

It is the settled proposition of law that choice of the 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 found suffering from any patent illegality or perversity. However, in the present case, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the District Collector. Similarly, none of the impugned orders passed by the Commissioner as well as Financial Commissioner has been found suffering from any patent illegality or perversity.

Further, no prejudice of any kind, whatsoever, has been pointed out by learned counsel for the petitioner, which might have been caused to the petitioner by passing the impugned orders, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India. In fact, all the three respondent revenue authorities have recorded their concurrent findings of facts which have been found based on correct appreciation of facts and the same deserve to be upheld, for this reason also.

No other argument was raised.

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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

28.11.2016
Ak Sharma

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