

CWP- 25863-2014

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

**CWP- 25863-2014
Date of Decision: 27.04.2016**

Gurdev Singh

... Petitioner(s)

Versus

Financial Commissioner, Revenue Punjab and others

... Respondent(s)

**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. Naveen Sharma, Advocate,
for the petitioner.

Mr. B.M.Vinayak, DAG, Punjab.

Mr. B.S.Sidhu, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J.

Learned counsel for the petitioner has produced the receipt of Rs.1,000/- deposited with the High Court Legal Services Committee in compliance of the order dated 05.04.2016.

Instant writ petition has been filed under Articles 226/227 of

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the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 08.01.2009 (Annexure P-9) passed by respondent No.3-District Collector, Sangrur appointing respondent No.4-Bhupinder Singh as Lambardar of village Naro Majra, Tehsil Malerkotla, District Sangrur and the orders dated 01.09.2009 (Annexure P-2) passed by respondent No.2-Commissioner, Patiala Division, Patiala and dated 20.08.2014 (Annexure P-3) passed by respondent No.1-Financial commissioner, Revenue, Punjab whereby appeal and revision petition, respectively, filed by the petitioner have been dismissed.

Brief facts of the case are that to fill up the vacancy caused on account of dismissal of Sajjan Singh, Lambardar of village Naro Majra, Tehsil Malerkotla as he left for U.P. after selling his entire property situated in village, 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 respondent No.4-Bhupinder Singh to be fit and suitable candidate for the post of Lambardar and ultimately vide impugned order dated 08.01.2009 (Annexure P-1) appointed him Lambardar. Feeling aggrieved, the petitioner preferred an appeal before respondent No.2-Commissioner, Patiala Division, Patiala who dismissed the same vide impugned order dated 01.09.2009 (Annexure P-2). Being dissatisfied, the petitioner

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preferred revision before respondent No.1-Financial Commissioner, Punjab who dismissed the same vide impugned order dated 20.08.2014 (Annexure P-3). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that the petitioner was appointed as Sarbrah Lambardar, when Sajjan Singh was not in a position to perform the duties of Lambardar and no one raised any objection at that time. During his tenure as Sarbrah Lambardar, there was no complaint against him. The petitioner also remained Sarpanch of the village for 15 years and in this manner, he is having good reputation in the village. The impugned orders suffer from illegality and perversity and are result of non-application of mind, therefore, the same are liable to be set aside.

Per contra, learned State counsel and learned counsel for respondent No.4 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned orders. It is contended that respondent No.4 took part in social welfare works. He organized 5 blood donation camps and free medical camps. He also donated blood during blood donation camps. Respondent No.4 is younger than the petitioner, therefore, has a preferential right for the post.

I have considered the rival contentions of learned counsel for the parties.

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A perusal of the record shows that all the authorities have recorded concurrent findings. The District Collector after appreciating the comparative merits specifically the age as well as qualifications of the petitioner and respondent No.4 and their involvement in social activities, found respondent No.4-Bhupinder Singh to be fit and suitable candidate for the post of Lambardar and appointed him as such. Respondent No.4 being a young energetic person is to be preferred for the post of Lambardar, therefore, he is a better candidate than the petitioner. So far as the contention of learned counsel for the petitioner that the petitioner was appointed as Sarbrah Lambardar is concerned, it is not tenable as he continued to function as Sarbrah Lambardar even after the death of Sajjan Singh (earlier Lambardar) on 02.08.2000. In fact, Sajjan Singh ceased to be Lambardar when he sold his properties in the village and left for settlement in Uttar Pradesh, meaning thereby the petitioner also ceased to be Sarbrah Lambardar, but he illegally continued to work as such. In ***Mahavir Singh Vs. Khiali Ram & others***, 2009(3) SCC 439, it has been held as under:

“14. It is now a well-settled principle of law, keeping in view the decisions in regard to the appointment of Lambardar in the State of Punjab, that age of a candidate is a relevant factor.

In Lt. Malik Abbas Khan v. Ghulam Haidar [1940

Lahore Law Times 25], it was stated :

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"...It is certainly not wise, save in very exceptional circumstances, to appoint for the first time, an inamkhor or zaildar whose age is 60 or more."

It is a settled principle of law that the choice of the Collector cannot be lightly set aside. It can only be set aside if there is perversity or illegality in the impugned order of the Collector. Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order passed by the District Collector. The finding of the District Collector has been affirmed by the Commissioner as well as Financial Commissioner.

In view of law laid down by Hon'ble the Supreme Court of India in the case of ***Mahavir Singh's (case) supra*** and ***Lila Ram Vs. Asa Ram***, 1955 Lahore Law Times 29 followed by a Division Bench of this Court in the case of ***Phool Kumar Vs. State of Haryana and others***, ***2010(2) RCR (Civil) 819***, the choice of the District Collector cannot be lightly set aside.

In ***Mahavir Singh's*** case (supra) the Hon'ble 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.

In view of above discussion and concurrent findings

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recorded by authorities below with regard to suitability of respondent
no.4, present writ petition fails.

Dismissed.

Costs made easy.

27.04.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge