

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24804 of 2016
Date of decision: 01.12.2016

Kulwant Singh

... Petitioner

Vs.

Financial Commissioner (Revenue), Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.S. Mor, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 08.09.2016 (Annexure P-6) passed by learned Financial Commissioner (Revenue), Haryana, whereby revision petition filed by the petitioner was dismissed and the order dated 16.05.2013 (Annexure P-4) passed by learned Commissioner, Hisar Division as well as the order dated 11.09.2012 (Annexure P-2) passed by learned District Collector, Hisar, appointing respondent No.5 as Lambardar, were upheld.

Heard learned counsel for the petitioner.

One post of Lambardar fell vacant in the village of the parties due to death of earlier Lambardar of general category namely Sh. Umed Singh. Proceedings were initiated to fill up the post of Lambardar. Finally, there were four candidates, including the petitioner as well as respondent No.5, who were in the fray for this one post of Lambardar of general category. After a comparative

study of merits of all the four candidates, District Collector, Hisar found respondent No.5-Virender Singh to be better suited candidate and accordingly, he was appointed as Lambardar vide order dated 11.09.2012 (Annexure P-2).

The relevant observations made by learned District Collector, in the operative part of the order dated 11.09.2012 (Annexure P-2), which deserve to be noticed here, read as under: -

“After hearing arguments of all the sides and going through the file carefully, I came to the conclusion that after comparing all the five candidates, it is found Sh. Krishan Kumar is having illegal possession. Pardeep Kumar is B.A. 1st year pass. Bijender is also 25 years B.A. pass. Sh. Kulwant is also B.A. pass of 42 years and is having no experience of Numberdari. In his comparison, Sh. Virender Singh is 28 years B.A. pass. He is having good health. He is real grandson of deceased Sh. Umed Singh. He was working as Sarbrah of Umed Singh during his lifetime. He is also participating in social works. He has given his best in cases of family planning and motivating the people towards money security. In this way, he is the best candidate for the post of Numberdar. Tehsildar Hansi also recommended his name to be Numberdar.

Keeping in view the above circumstances, Sh. Virender Singh son of Sh. Prem Chand having found better amongst other four candidates is hereby appointed as Numberdar of village Gurna Tehsil Hansi of general category in place of Sh. Umed Singh Numberdar (deceased). Sanad Lambardari be issued. File be consigned to the record room.”

Petitioner filed his appeal, which was dismissed by learned Commissioner, Hisar Division vide order dated 16.05.2013 (Annexure P-4). Revision petition filed by the petitioner also met with the same fate, when it was dismissed by the Financial Commissioner vide impugned order dated 08.09.2016 (Annexure P-6). Hence this writ petition.

A bare combined reading of all the three impugned orders passed by the respondent revenue authorities would show that none of them have committed any error of law, while passing their respective impugned orders and the same deserve to be upheld. In fact, the Collector, Commissioner as well as Financial Commissioner have recorded their concurrent findings of fact, which do not call for any interference from this Court, because none of the impugned orders have been found suffering from any patent illegality or perversity.

It is the settled proposition of law that choice of District Collector, in the matters of appointment of Lambardar, is not to be upset lightly by the higher revenue authorities, unless the order passed by District Collector is found suffering from any patent illegality or perversity. Since the orders passed by learned Collector as well as Commissioner were not found suffering from any patent illegality, learned Financial Commissioner rightly upheld the same and because of this reason, all the three impugned orders deserve to be upheld.

The only argument raised by learned counsel for the petitioner is that respondent No.5 irrigated his fields unauthorizedly by canal water and a penalty was imposed on him by the competent canal authority. Since respondent No.5 had to deposit the penalty amount, the wrong committed by him was duly proved, because of which he was not an eligible candidate for appointment to the post of Lambardar. Having given a thoughtful consideration to this contention

raised by learned counsel for the petitioner, the same has been found wholly misplaced and not worth acceptance. It is so said because in the very nature of things, it cannot be viewed so seriously that one would render himself ineligible for appointment to the post of Lambardar, particularly, when respondent No.5 was not found to be a defaulter. This Court would be exceeding its jurisdiction to declare respondent No.5 as ineligible for appointment to the post of Lambardar on the abovesaid alleged wrong committed by him. This aspect was rightly appreciated by learned Financial Commissioner also, while passing his impugned order and the same deserves to be upheld, for this reason also.

So far as their comparative merits are concerned, petitioner as well as respondent No.5-both were graduate. Petitioner was 42 years old, whereas respondent No.5 was 28 years old. Both the candidates were having sufficient land in the village. Being almost at par regarding their qualification, respondent No.5 was having a clear edge on the petitioner, because he had worked as Sarbrah Lambardar during the lifetime of earlier Lambardar late Sh. Umed Singh. Thus, respondent No.5 was having working experience to his credit. He also used to participate in the social works and actively helping the State authorities for achieving the targets of different policies of the State, including the Family Planning Scheme. It was so recorded by learned District Collector in his impugned order (Annexure P-2), while appointing respondent No.5 as Lambardar. Having said that, this Court feels no hesitation to conclude that no error of fact or law was committed by any of the respondent revenue authorities, while passing their impugned orders and the same deserve to be upheld, for this reason as well.

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 since the impugned orders passed by all the respondent revenue authorities have not been found suffering from any patent illegality, the same deserve to be upheld. The 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, instant writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

01.12.2016

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No