

Civil Writ Petition No. 25718 of 2016

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

Civil Writ Petition No. 25718 of 2016

Date of Decision: 13.12.2016

Som Raj

.....Petitioner

Vs.

Financial Commissioner, (Appeals 1), Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Jagjit Singh, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the impugned order dated 21.12.2015 (Annexure P-3) passed by the Financial Commissioner, whereby revision petition filed by the petitioner was dismissed, upholding the orders of Commissioner as well as District Collector, appointing respondent No.2 as Lambardar, 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 orders.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that petitioner has studied up to 9th class, whereas respondent No.2 has studied up to 12th class. Respondent No.2 had also passed a diploma. Name of the petitioner was recommended by Naib Tehsildar whereas name of respondent No.2 was

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recommended by Tehsildar as well as Sub Divisional Magistrate for appointment to the post of Lambardar. After careful analysis of comparative merits of both the candidates, the District Collector found that respondent No.2 was having a clear edge over the petitioner and accordingly, he was appointed as Lambardar vide order dated 18.11.2010 (Annexure P-1). Appeal filed by the petitioner was dismissed by the Commissioner, Jalandhar Division, Jalandhar vide order dated 27.1.2014 (Annexure P-2). Similarly, Financial Commissioner dismissed the revision petition of the petitioner, vide impugned order dated 21.12.2015 (Annexure P-3). Hence this writ petition.

The argument raised by learned counsel for the petitioner was that since the petitioner was a grandson of deceased Lambardar, he ought to have been given preference by the District Collector for appointment to the post of Lambardar. However, when confronted as to how the petitioner can put the hereditary claim which is no more available, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. In fact, a combined reading of all the three impugned orders passed by the revenue authorities would make it crystal clear that neither the District Collector, nor Commissioner have committed any error of law, while passing their respective impugned orders.

Similarly, Financial Commissioner was well within his jurisdiction to uphold the orders passed by the District Collector and Commissioner, because none of the orders passed by them has been found to be suffering from any patent illegality or perversity. Having said that, this Court feels no hesitation to conclude that the impugned orders deserve to be upheld, for this reason also.

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Before appointing respondent No.2 as Lambardar, the District Collector recorded cogent findings, which have been found based on sound reasons. Operative part of the impugned order dated 18.11.2010 (Annexure P-1) passed by the District Collector, which deserves to be noticed here, reads as under:-

“The written arguments submitted by the learned counsels and after perusal of the record, it is found that candidate Satpal Nahar son of Piara Lal resident of village Nadali is younger from the other candidate Shomraj. More educated. Diploma holder. Seven candidates withdrawn their applications in his favour and requested that he be appointed Nambardar. Tehsildar and S.D.M., Bholath also recommended candidate Satpal Nahar for Harijan Nambardar. Therefore, I am agreeing with the arguments of counsel for candidate Satpal Nahar and from the perusal of the record on file and on the recommendation of Tehsildar/S.D.M., appoint candidate Satpal Nahar son of Piara Lal as Harijan Nambardar of village Nadali, Tehsil Bhoalth, District Kapurthala. Record be sent to the record room.”

It is the settled proposition of law that choice of the District Collector, in the matters of appointment of Lambardar, is not to be upset lightly, unless the order passed by the District Collector is found suffering from any patent illegality or perversity. During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or

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perversity in any of the impugned orders. Further, no prejudice of any kind, whatsoever, has been shown 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.

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 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.

13.12.2016
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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