IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.26130 of 2016
Date of decision: 16.12.2016

Sukhdev Singh

... Petitioner

Vs.

Financial Commissioner (Revenue), Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sapan Dhir, Advocate
for the petitioner.

Mr. H.S. Dhindsa, Advocate
for the caveator-respondent No.6.

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RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 06.09.2016 (Annexure P-15) passed by learned Financial Commissioner (Revenue), Punjab, whereby revision petition filed by the petitioner was dismissed and the order dated 14.05.2013 (Annexure P-13) passed by Divisional Commissioner, Patiala Division, Patiala as well as order dated 01.06.2011 (Annexure P-12) passed by District Collector, Ludhiana, appointing respondent No.6 as Lambardar, were upheld.

Heard learned counsel for the petitioner.

It is a matter of record that petitioner was 70 years of age, when he applied for the post of Lambardar. His date of birth is 08.09.1941. He has already completed 75 years of age. As per his own showing, respondent No.6, who has been appointed as Lambardar, is 38 years of age. Learned counsel for the petitioner could not point out any ineligibility or disqualification in the candidature of respondent No.6, who has been appointed as Lambardar by the District Collector, Commissioner as well as Financial Commissioner.

In view of these undisputed facts, coupled with the law laid down by the Hon'ble Supreme Court in **Mahavir Singh Vs. Khiali Ram and others, 2009 (3) SCC 439,** this Court feels no hesitation to conclude that respondent No.6 was rightly appointed as Lambardar by the Collector, Commissioner as well as Financial Commissioner, giving him preference over the petitioner. In fact, bare combined reading of the impugned orders would show that none of the respondent revenue authorities have committed any error of law, while passing their respective impugned orders and the same deserve to be upheld.

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. In the present case, all the three revenue authorities i.e. Collector, Commissioner as well as Financial Commissioner have recorded concurrent findings of fact, which do not call for any interference at the hands of this Court and the impugned orders deserve to be upheld, for this reason also.

Coming to the merits of the petitioner, no doubt he was better qualified than respondent No.6, however, respondent No.6 was not ineligible or disqualified on account of his less educational qualification. Petitioner was having more land in the village than respondent No.6, but respondent No.6 was owning sufficient quantity of land, which makes him fully eligible and qualified for the post of Lambardar. Petitioner was nephew of deceased Lambardar but since hereditary claim is no more available, as the said provision of law has already been declared ultra vires the Constitution by this Court, this fact does not advance the case of the petitioner any further.

Petitioner claims himself to be a social worker, but that fact alone would not be and cannot be a conclusive determinative factor. In fact, age of the petitioner was not on his side. As noticed hereinabove, he has already completed 75 years of age. It was not at all advisable for any of the respondent revenue authority to appoint the petitioner as Lambardar for the first time, when he has already attained this advance age, particularly when the other candidate available i.e. respondent No.6 was a matured person but his age was only 38 years and he was not suffering from any kind of disqualification or ineligibility. This seems to be the reason that lower revenue authorities i.e. Naib Tehsildar and Sub Divisional Magistrate had also recommended the name of respondent No.6 for appointment to the post of Lambardar.

In view of the abovesaid totality of facts and circumstances of the case, it is unhesitatingly held that respondent No.6 was rightly appointed by the District Collector. Commissioner as well as Financial Commissioner were also well within their jurisdiction to uphold the order passed by District Collector and all the three impugned orders deserve to be upheld, for this reason as well.

The argument raised by learned counsel for the petitioner that District Collector failed to consider the comparative merits of both the candidates, has also been found misplaced, for the reason that the entire relevant record was available with the District Collector. He has gone through the record available with him including reports made by lower revenue authorities. The impugned order passed by District Collector has not been found suffering from any patent illegality or perversity.

Finally, learned Financial Commissioner reconsidered the matter and recorded his own cogent findings, which have been found based on sound reasons. Relevant operative part of the impugned order dated 06.09.2016 (Annexure P-15) passed by learned Financial Commissioner, Punjab, which deserves to be noticed here, reads as under: -

> *"After hearing both the parties and going through the evidence on record I am of the considered opinion that the overall suitability of the candidate has to be assessed by the Revenue Officers, who are at the cutting edge level. In this case even after remand, the SDM recommended the name of the respondent. The counsel for the petitioner failed to find any law point making it mandatory for the appointment of candidate belonging to the same patti. The petitioner is a retired teacher and though his age has not been mentioned but he is certainly 65 years in age and in such circumstances the suitability of respondent as candidate for Lambardar by the Revenue Officers cannot be ignored. In such circumstances I am in agreement with the Divisional Commissioner and the revision petition being devoid of merit is therefore rejected. Order pronounced and the file be consigned to the record room."*

Further, in the circumstances of the case, no prejudice, of any kind whatsoever, has been caused to the petitioner, by passing the impugned orders, which may warrant 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 since the impugned orders passed by all the three revenue authorities have not been found suffering from any patent illegality or perversity, the same deserve to be upheld. The writ petition having been found wholly misconceived, bereft of merit and without any substance, 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

16.12.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No