IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 27263 of 2015
Date of decision: 11.05.2016

Bachan Singh

....Petitioner

Versus

Financial Commissioner (Revenue), Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

Present: Mr. S.P. Soi, Advocate,
for the petitioner.

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Paramjeet Singh Dhaliwal, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 19.05.2015 (Annexure P-6) passed by respondent No.1- Financial commissioner, Revenue, Punjab, the orders dated 19.12.2014 (Annexure P-4) passed by respondent No.2-Commissioner, Jalandhar Division, Jalandhar and order dated 7.5.2013 (Annexure P-2) passed by respondent No.3-Deputy Commissoner-cum-District Collector, Jalandhar, appointing respondent No. 4- Piara Singh as Lambardar of village Bajwa Kalan Tehsil Shahkot District Jalandhar.

Brief facts of the case are that the petitioner was appointed as Lambardar of village Bajwa Kalan, Tehsil Shahkot, District Jalandhar and respondent No.4- Piara Singh was one of the candidates, who competed with him. Respondent No. 4 filed an

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appeal before the Commissioner against the order appointing the petitioner as Lambardar, which was dismissed on 28.10.2005. Respondent No. 4 preferred revision petition before the Financial Commissioner. During the pendency of said revision petition, an FIR was registered against the petitioner on 20.05.2006, on account of this the petitioner was removed from the post of Lambardar by the Collector vide order dated on 24.04.2008. The petitioner filed an appeal against the order dated 24.04.2008, before the Addl. Commissioner, Jalandhar which was dismissed on 17.12.2009. The revision petition filed by respondent No. 4 was allowed by the Financial Commissioner and respondent No. 4 was appointed as Lambardar vide order dated 10.08.2010. The petitioner challenged the order of Financial Commissioner in CWP No. 18824 of 2010. The High Court remanded the case back to the Collector to make a fresh appointment. Thereafter, in pursuance of order of this Court, fresh process was initiated and vide order dated 07.05.2013 (Annexure P-2), the Collector appointed respondent No. 4 as Lambardar. Against the order dated 07.05.2013, the petitioner preferred an appeal before the Commissioner, Jalandhar Division, Jalandhar which was dismissed vide order dated 19.12.2014 (Annexure P-4). Thereafter, the petitioner filed a revision before the Financial Commissioner, which was also dismissed vide order dated 19.05.2015 (Annexure P-6). Hence this writ petition

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

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A perusal of the record shows that all the authorities have recorded concurrent findings. 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 :
>
> "...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

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of the Collector to compare the merits of the candidates for appointment to the post of Lambardar.

So far as contention of learned counsel for the petitioner that the petitioner was acquitted in the criminal case is concerned, the Division Bench of this Court in ***Jog Dhian Vs. Financial Commissioner, Haryana, 2005 (1) RCR (civil) 658*** has held that even if a person has been acquitted, the stigma attached to it is not completely washed out. Even if it is presumed that no stigma lies, once the collector has come to a conclusion that respondent no. 4 is a better candidate, in pursuance of ***Mahavir Singh's case*** (supra) the choice of the Collector cannot be lightly set aside

In view of above discussion and concurrent findings recorded by authorities below with regard to suitability of respondent no.4, present writ petition fails.

Dismissed.

11.05.2016 **(Paramjeet Singh Dhaliwal)**
PA **Judge**

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