

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

CWP No. 27401 of 2015
Date of decision: 11.05.2016

Tarsem Lal

....Petitioner

Versus

Financial Commissioner (Revenue), Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. Gaurav Rana, Advocate,
for the petitioner.

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 07.08.2013 (Annexure P-8) passed by respondent No.3-District Collector, Patiala appointing respondent No.4- Gurmail Singh as Lambardar (S.C. Category) of village Kamalpur, Tehsil Samana, District Patiala and the orders dated 26.11.2014 (Annexure P-10) passed by respondent No.2-Commissioner, Patiala Division, Patiala and dated 07.08.2013 (Annexure P-8) 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 of Lambardar (S.C. Category) of village Kamalpur, Tehsil Samana, District Patiala, 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- Gurmail Singh to be fit and suitable candidate for the post of Lambardar and vide impugned order dated 07.08.2013 (Annexure P-8) 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 26.11.2014 (Annexure P-10). Being dissatisfied, the petitioner preferred revision before respondent No.1-Financial Commissioner, Punjab who dismissed the same vide impugned order dated 15.07.2015 (Annexure P-12). Hence, this writ petition.

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

Learned counsel for the petitioner vehemently contended that the petitioner is fit, eligible and competent person for the post of Lambardar as the image of the petitioner is very clean. He is honest and has no case pending against him. Further majority of the people of the village supported the candidature of the petitioner. He further contends that various applications regarding the forceful cultivation of Panchayat land by the respondent No. 4 have been given to various revenue authorities but till date no action has been taken. 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.

I have considered the rival contentions of learned

counsel for the petitioner

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- Gurmail Singh to be fit and suitable candidate for the post of Lambardar and appointed him as such. Petitioner was 53 years of age and respondent No. 4 was 48 years of age at the time of submitting application. 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. 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 has also been 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**, that the choice of

the District Collector cannot be lightly set aside. It can only be set aside if there is some 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 **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 recorded by authorities below with regard to suitability of respondent no.4, present writ petition fails.

Dismissed.

11.05.2016
PA

(Paramjeet Singh Dhaliwal)
Judge