

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

CWP No. 2648 of 2016
Date of decision: 16.05.2016

Sukhdev Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

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

Present: Mr. Amit Sharma, Advocate,
for the petitioner.

Mr. Mansih Jolly, Advocate,
for the caveator-respondent No.4.

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 for setting aside the impugned order dated 02.12.2015 (Annexure P-8) passed by respondent No.1- Financial Commissioner (Appeals), Punjab whereby order dated 28.10.2014 (Annexure P-7) passed by the Divisional Commissioner, Patiala has been set aside and order dated 24.07.2013 (Annexure P-6) passed by the Collector, Patiala, District Patiala appointing respondent No. 4- Jagdev Singh has been upheld.

This is second round of litigation. Brief facts relevant for disposal of this petition are to the effect that on account of creation of new post of Lambardar in village Dabhali Khurd Tehsil Rajpura, District Patiala, applications were invited from the interested persons by making proclamation in the village. In pursuance of the

proclamation, 7 applications were received. The Collector, after appreciating the comparative merit of the candidates found petitioner, Sukhdev Singh to be fit and suitable candidate and vide order dated 30.05.2012 (Annexure P-3) appointed him as Lambardar of the Village. The said order was set-aside by the Commissioner, Patiala vide order dated 27.02.2013 (Annexure P-5) and the case was remanded to the Collector with a direction to examine the comparative merit and also take into consideration the service rendered by respondent No. 4 in Army for 28 years, who retired as an Hony-Captain and has also remained as Sarpanch of the Village. When the matter was re-examined by the District Collector, after taking into consideration the service rendered by respondent No.4 in the Army for 28 years as well as popularity with his being a Sarpanch of the village respondent No.4-Jagdev Singh was appointed as Lambardar of the village vide order dated 24.07.2013 (Annexure P-6). Against that order, the petitioner preferred an appeal before the Commissioner, Patiala. The Commissioner again remanded the case back without any cogent reason by observing that both the candidates are having equal merit. The service rendered by respondent No. 4 as Army personnel to the State and his popularity as Sarpanch was not taken into consideration. Merely saying that both are equally meritorious, case was remanded. Against that respondent No. 4 preferred a revision before the Financial Commissioner, who vide order dated 02.12.2015 (Annexure P-8), after taking into consideration the comparative merits set aside the order of the

Divisional Commissioner and upheld the order of the Collector dated 24.07.2013 (Annexure P-6). Hence, instant writ petition.

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

Perusal of the record shows that both, the petitioner as well as respondent No.4 are having comparatively equal merit but in addition to that respondent No. 4 has served in the Army for 28 years and has also remained Sarpanch of the village, meaning thereby respondent No.4 is more meritorious. Under Rule 15 of Punjab Land Revenue Rules, it is specifically mentioned that popularity in the community and service rendered to the State are amongst other matters, which are required to be taken into consideration for appointment of a Lambardar.

The Hon'ble Supreme Court of India in the case of **Mahavir Singh Vs. Khiali Ram & others, 2009(3) SCC-439, Lila Ram Vs. Asa Ram, 1955 Lahore Law Times-29** followed by Division Bench of this Court in the case of **Phool Kumar Vs. State of Haryana and others, 2010 (2) RCR (Civil) 819**, held that 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 the prerogative of the Collector to compare the merits of the candidates for appointment to the post of Lambardar. There are concurrent findings recorded by the

Collector and the Financial Commissioner.

In view of above, I do not find any illegality or perversity in the order passed by the Financial Commissioner, Punjab.

Dismissed.

16.05.2016

PA

(Paramjeet Singh Dhaliwal)
Judge