

In the High Court of Punjab and Haryana at Chandigarh

**C.W.P. No. 4759 of 2016
Date of Decision: March 14, 2016**

Ved Parkash

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Jatinderpal Singh, 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 order dated 08.11.2007 (Annexure P/1) passed by respondent no.3 – District Collector, Ambala, appointing respondent no.4 – Surinder Kumar as Lambardar of Village Nanheda, Tehsil Naraingarh, District Ambala and order dated 22.04.2015 (Annexure P/5) passed by respondent no.1 – Financial Commissioner, Haryana whereby ROR No. 40 of 2007-08 filed by respondent no.4 has been allowed and ROR No. 29 of 2008-09 filed by respondent no.5 – Nawal Kumar has been dismissed.

Brief facts of the case are that to fill up the vacancy caused on account of death of Rulia Ram, previous Lambardar of Village Nanhera, Tehsil Naraingarh, District Ambala, applications were invited from the interested persons by making proclamation in the village. In pursuance of the proclamation, 12 applications were received. The Collector, after

appreciating the comparative merit of the candidates found Surender Kumar – respondent no.4 to be fit and suitable candidate and vide order dated 08.11.2007 (Annexure P/1) appointed him as Lambardar of the Village. Against the order (Annexure P/1), petitioner as well as respondent no.5 preferred two separate appeals before the Commissioner. The Commissioner, Ambala Division, Ambala, vide order dated 20.02.2008 (Annexure P/2) accepted the appeal of the petitioner and appointed him as Lambardar of the village and dismissed the appeal filed by respondent no.5. Against that order, respondent no.4 filed an appeal before the Financial Commissioner. The Financial Commissioner vide order dated 18.05.2009 (Annexure P/3) remanded the case to the Collector for fresh decision. Thereafter, respondent no.4 preferred a writ petition being C.W.P. 8181 of 2010 before this Court. This Court vide order dated 28.03.2011 (Annexure P/4) allowed the writ petition and directed the Financial Commissioner to take a decision himself after seeking a specific report from District Collector Ambala with regard to the encroachment by the applicants over panchayat land. The Financial Commissioner vide order dated 22.04.2015 (Annexure P/5), after appreciating the comparative merit of the candidates, upheld the appointment of Surender Kumar – respondent no.4 as Lambardar of the village. Hence, instant writ petition.

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

It is well settled that in view of law laid down by Hon'ble the Supreme Court of India in the case of **Mahavir Singh Vs. Khiali Ram & others, 2009(3) SCC-439, Lila Ram Vs. Asa Ram, 1995 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, 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. The Financial Commissioner has categorically held that Surender Kumar – respondent no.4 is not in unauthorized possession of land falling under Khasra No.42. It is categorically stated by the Collector that there is no encroachment by Surender Kumar. Respondent no.4 – Surender Kumar is more meritorious as compared to the petitioner and respondent no.5. The Financial Commissioner rightly upset the order of the Commissioner and upheld the order of the Collector. There are concurrent findings recorded by the Collector and the Financial Commissioner.

Learned counsel for the petitioner has not been able to point out any perversity or illegality in the orders passed by the Collector. The findings of the Collector have been affirmed by the Financial Commissioner.

In view of the above discussion, the present writ petition fails.

Dismissed in limine.

March 14, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge