

In the High Court of Punjab and Haryana at Chandigarh

**C.W.P. No. 5432 of 2016
Date of Decision: March 21, 2016**

Amrik Singh

... Petitioner

Versus

Financial Commissioner (Animal Husbandry) Punjab and others

... Respondents

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

Present: Mr. Satbir Rathore, 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 21.08.2008 (Annexure P/1) passed by respondent no.3 – District Collector, Hoshiarpur, whereby respondent no.4 – Amrik Singh son of Sh. Karam Chand @ Karam Singh has been appointed as Lambardar of Village Dariya, Tehsil Dasuya, District Hoshiarpur and order dated 08.08.2014 (Annexure P/3) passed by respondent no.1 – Financial Commissioner (Animal Husbandry), Punjab whereby ROA No. 57 of 2009 filed by respondent no.4 has been allowed and order of Collection has been upheld.

Brief facts of the case are that to fill up the vacancy caused on account of death of Karam Singh, previous Lambardar of Village Dariya, Tehsil Dasuya, District Hoshiarpur, applications were invited from the interested persons by making proclamation in the village. In pursuance of

the proclamation, 4 applications were received. The Collector, after appreciating the comparative merit of the candidates found Amrik Singh son of Sh. Karam Singh – respondent no.4 to be fit and suitable candidate and vide order dated 21.08.2008 (Annexure P/1) appointed him as Lambardar of the Village. Against the order (Annexure P/1), petitioner preferred an appeal before the Commissioner. The Commissioner, Jalandhar Division, Jalandhar, vide order dated 20.07.2009 (Annexure P/2) accepted the appeal of the petitioner and appointed him as Lambardar of the village. Against that order, respondent no.4 filed an appeal before the Financial Commissioner. The Financial Commissioner vide order dated 08.08.2014 (Annexure P/3) set aside the order of the Commissioner and upheld the order of the Collector. Hence, instant writ petition.

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

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. The Commissioner reversed the order of the District Collector and instead of

remanding the case back to the Collector, himself appointed the petitioner as Lambardar. This approach of the Commissioner is against settled law. The Financial Commissioner has categorically held that respondent no.4 – Amrik Singh son of Karam Chand @ Karam Singh is 50 years old and is having 24 kanals of land and is also son of deceased Lambardar, whereas, petitioner has less land than respondent no.4. Respondent no.4 being son of deceased Lambardar has preferential right to be appointed as Lambardar when the other merits are equal. The Financial Commissioner has 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 21, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge