

CWP No.5866-2016

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

CWP No.5866-2016

Date of Decision: 30.03.2016

Atma Singh

... Petitioner(s)

Versus

The Financial Commissioner, Revenue, Punjab and others

... Respondent(s)

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

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Ramesh Sharma, 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 18.11.2014 (Annexure P-1) passed by respondent No.3 whereby respondent No.5 has been appointed Lambardar and the orders dated 31.03.2015 (Anexure P-2) and 09.09.2015 (Annexure P-3) passed by respondent Nos.2 and 1, respectively, whereby appeal and revision filed by the petitioner has been dismissed.

Brief facts of the case are that to fill up the vacancy caused

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on account of death of Kapoor Singh, Lambardar of village Deharka, Tehsil Jagraon, District Ludhiana, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of the proclamation, candidates submitted their applications. The revenue authorities recommended the name of respondent No.5-Jasvir Singh for Lambardar. Respondent No.3-Collector after appreciating the comparative merit of the candidates found respondent No.5-Jasvir Singh to be fit and suitable candidate and vide impugned order dated 18.11.2014 (Annexure P-1) appointed him Lambardar of the village. Against that, the petitioner filed appeal before respondent No.2-Commissioner, Patiala Division, Patiala which was dismissed vide impugned order dated 31.03.2015 (Annexure P-2). Being dissatisfied, the petitioner preferred revision before respondent No.1-Financial Commissioner which has been dismissed vide impugned order dated 09.09.2015 (Annexure P-3). Hence, this writ petition.

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

Learned counsel for the petitioner has contended that the petitioner is more meritorious than respondent No.5. The petitioner is having 56 kanals of land whereas respondent No.5 is having only 14 kanals of land. Learned counsel further contends that father of the petitioner was Lambardar, therefore, the petitioner has a hereditary claim also. The impugned orders are not sustainable in the eyes of law.

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I have considered the contentions of learned counsel for the petitioner.

While appointing Lambardar, the Collector is required to take into consideration all the parameters mentioned in Rule 15 of the Punjab Land Revenue Rules. After considering all the matters mentioned in the said Rule, the Collector is required to decide which candidate is suitable for the appointment of Lambardar. The choice to find out a suitable candidate lies with the Collector only. A perusal of the record shows that all the authorities have recorded concurrent findings. The District Collector after appreciating the comparative merit, specifically the educational qualification, age, participation in social activities, possessing the sufficient land and recommendations made by the revenue authorities in his favour, found respondent No.5 to be fit and suitable candidate for the post of Lambardar. It is made clear that though the Collector is not bound by the recommendations made by the revenue authorities in favour of a candidates, however, due consideration is to be accorded to such recommendations as they are in a position to assess the suitability of a candidate.

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 illegality or perversity in the order passed by the District Collector. The finding of the District Collector has been affirmed by the Commissioner as well as

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Financial Commissioner.

In view of law laid down by 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, 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 of the Collector to compare the merits of the candidates for appointment to the post of Lambardar. There are concurrent findings recorded by the revenue authorities.

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

Dismissed in limine.

No order as to costs.

30.03.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge