

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

237

CWP No. 8493 of 2015 (O&M)

Date of decision: 17.03.2016

Mansa Ram

....Petitioner

Versus

Financial Commissioner, Haryana and others

....Respondents

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

Present: Mr. Vineet Chaudhary, Advocate, for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Mr. Gurcharan Singh Gandhi, Advocate,
for respondent No.3.

Paramjeet Singh Dhaliwal, J. (Oral)

The instant writ petition has been filed for setting aside order dated 07.10.2014 (Annexure P-8) passed by the Financial Commissioner and order dated 08.11.2013 (Annexure P-7) passed by the Commissioner, vide which the order dated 13.03.2012 (Annexure P-6) passed by the Collector has been set aside and the case has been remanded back to the Collector for passing fresh order.

Brief facts of the case are that on account of death of Suraina Ram, Scheduled Caste Lambardar of village Urlana, post of Lambardar fell vacant. Applications were invited for fresh appointment after the Collector permitted the issuance of proclamation in the village for filling up the vacant post. In pursuance of the proclamation, applications from Mansa Ram son of Shingara Ram and Piare Lal son of Puran Ram R/o Village Urlana, were received. The Collector after considering the comparative merits of the candidates appointed the petitioner as

Lambardar. It needs to be mentioned here that earlier also this matter came up before this Court in CWP No. 3056 of 2009, wherein the orders of the revenue authorities were set-aside and the case was remanded back to the Collector for fresh decision. The Collector vide order dated 13.03.2012 (Annexure P-6) again appointed the petitioner as Lambardar. On appeal, the Commissioner vide order dated 08.11.2013 (Annexure P-7), remanded the case back on the following grounds:

“The Collector has not observe any thing regarding the illegal possession on the land of the Gram Panchayat in the impugned order. In addition to his, no observation has also been made regarding the appointment of the respondent as a Sarbarah Lambardar, and in fact it is necessary to clear that the respondent was appointed as Sarabrah lambardar under the which rule. Regarding the fact that the respondent has an experience of the post of Lambardar from the year 2006, it is made clear that the Hon'ble High Court vide order dated 18.08.2011 has set aside all the orders of lower revenue officers, then it is not justified to give a benefit of having the experience of lambardar from the year 2006, to the respondent. In my opinion the impugned order of the Collector is not in the interest of justice. Therefore, the impugned order of the Collector is set aside and this case is remanded back to the Collector, Kaithal to decide the case afresh on the basis of merits and demerits of the case, with the direction that he mention regarding the illegal possession of the appellant on the land of the gram panchayat and the validity of the appointment on the post of lambardar. The parties were instructed to appear before the Lowr court on 13.12.2013.”

Against the remand order, the petitioner preferred an appeal before the Financial Commissioner, who has upheld the order of the Collector, vide order dated 07.10.2014 (Annexure P-8). Hence this writ petition.

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

The Commissioner has remanded back the case on the ground that the Collector has not recorded any findings with regard to illegal possession of respondent No.3 on the Gram Panchayat land. In the impugned order, no observation has been made regarding order, vide which the petitioner was appointed as Sarbarah Lambardar. For appointment as Sarbarah Lambardar, as per provisions of Punjab Land Revenue Act, specific order by the competent authority is necessary. If no such order has been passed then he cannot be treated as Sarbarah Lambardar and experience gained as Sarbarah Lambardar cannot be taken into consideration. It has further been observed that the Collector has wrongly given the benefit to the present petitioner of the experience he gained during the period after his appointment as Lambardar by the Collector. Merit is to be seen on the last date of submission of application for the post of Lambardar.

In view of above, I do not find any illegality or perversity in the impugned orders. Further, no prejudice will be caused to the petitioner as he will get full chance along with other candidates for being considered for the post of Lambardar.

Dismissed.

17.03.2016
PA

(Paramjeet Singh Dhaliwal)
Judge