

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

CWP-8729-2016

Date of Decision:06.05.2016

JAGJIT SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

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. Sarbjit Singh, Advocate for the petitioner.

PARAMJEET SINGH DHALIWAL J. (ORAL)

Instant civil writ petition has been filed under Article 226/227 of the Constitution of India, praying for the issuance of a writ, especially in the nature of Certiorari for quashing the impugned order dated 23.07.2015 (Annexure P-6) passed by the Ld. Financial Commissioner (Appeals-I), Punjab, Chandigarh vide which the well reasoned order dated 06.08.2012 (Annexure P-4) passed by the Ld. Commissioner, Jalandhar Division, Jalandhar has been set aside.

Brief facts of the case are that after the death of Gurdas Singh son of Harnam Singh, Lambardar of Village Bidhipur, Tehsil-Sultanpur Lodhi, District Kapurthala process was initiated to fill up the post of Lambardar. Alongwith the petitioner as well as respondent No.5 three other persons namely Nand Singh, Hoshiar Singh and Balbir Singh applied for the post of Lambardar. The Naib Tehsildar-cum-Assistant Collector, Grade-II, Sultanpur

Lodhi was directed to verify the credentials of all the candidates of Lambardari. The Naib Tehsildar called the report from the area patwari and also verified the character of all the candidates of Lambardari from police station Sultanpur Lodhi. On the basis of report of patwari, the Naib Tehsildar, Sultanpur Lodhi recommended the name of the petitioner for the post of Lambardari of village Bidhipur, Tehsil Sultanpur Lodhi, District Kapurthala and sent the matter to the SDM. SDM recommended the name of Balbir Singh for appointment as Lambardar. Further, the District Collector after comparing the merits of all the available candidates appointed respondent No.5-Resham Singh as Lambardar vide dated 19.04.2011 (Annexure P-3). Thereafter, the petitioner and another Balbir Singh filed separate appeals before Commissioner, Jalandhar Division, who vide order dated 06.08.2012 (Annexure P-4) appointed Jagjit Singh-petitioner as Lambardar. In revision against the order of Commissioner, the Financial Commissioner vide order dated 23.07.2015 (Annexure P-6) set aside the order of Commissioner and upheld the order of the Collector appointing respondent No.5 as Lambardar. Hence, this writ petition.

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

Learned counsel for the petitioner vehemently contended that the orders passed by Collector (Annexure P-3) as well as Financial Commissioner (Annexure P-6) are erroneous, perverse and against the settled principles of law, thus, not sustainable in the eyes of law. Learned counsel for the petitioner contended that petitioner is doing the work of Lambardar for the last more than 2 ½ years, there is not even a single complaint against the petitioner and the whole village is satisfied with the work of petitioner.

I have considered the contentions raised by learned counsel for the petitioner.

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 Collector has categorically held that respondent No.5-Resham Singh is eligible candidate for this post because he is matriculate. He can read and write Punjabi and English. He remained member of panchayat for five years, president of Co-operative Society and Chairman of Paswick Society of the village for 4 years, he seems to be a very prudent person, whereas in his comparison, candidate Jagjit Singh no doubt is also matriculate and may be he is younger to him but a criminal case has been registered against him. He may have been acquitted from this case but the stigma is not washed away. 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.

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*** has held that the choice of the District Collector cannot be lightly set aside.

In Mahavir Singh's case (supra) the 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.

Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order 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.

No order as to costs.

(Paramjeet Singh Dhaliwal)
Judge

May 6, 2016
Rajneesh