

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

CWP No. 9106 of 2016
Date of decision: 11.05.2016

Baldev Singh

....Petitioner

Versus

Financial Commissioner (Revenue), Punjab and another
....Respondents

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

Present: Mr. Jagjit 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 the order dated 20.03.2011 (Annexure P-3) passed by Collector, Jalandhar appointing respondent No.2- Sukhjinder Singh as Lambardar of village Mehamadpur and the orders dated 24.12.2013 (Annexure P-2) passed by Commissioner, Jalandhar Division, Jalandhar and dated 21.08.2014 (Annexure P-1) passed by respondent No.1-Financial Commissioner, Revenue, Punjab whereby appeal and revision petition, respectively, filed by the petitioner have been dismissed.

Brief facts of the case are that to fill up the vacancy caused on account of dismissal of Piara Singh, Lambardar of village Mehamadpur, to fill up the vacancy applications were invited from interested persons by making publication/proclamation in the

village after obtaining necessary sanction from the Collector. After completing formalities, matter came up for consideration before the Collector, Kapurthala. However, on an application moved by the present petitioner, the Commissioner, Jalandhar Division transferred the case from Collector, Kapurthala to Collector Jalandhar. The Collector, Jalandhar after appreciating the comparative merit of the candidates found respondent No.2- Sukhjinder Singh to be fit and suitable candidate for the post of Lambardar and ultimately vide impugned order dated 20.03.2011(Annexure P-3) appointed him Lambardar. Feeling aggrieved, the petitioner along with another candidate namely, Pritam Kaur preferred separate appeals before the Commissioner, Jalandhar Division, Jalandhar who dismissed the same vide impugned order dated 24.12.2013 (Annexure P-2). Being dissatisfied, the petitioner preferred revision before respondent No.1-Financial Commissioner, Punjab who dismissed the same vide impugned order dated 21.08.2014 (Annexure P-1). Hence, this writ petition.

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

Learned counsel for the petitioner vehemently contended that the revenue authorities have failed to appreciate the services rendered by the petitioner to the nation as he has served for 20 years in the Army. He is having more land in his name and remained Sarpanch of the village, as such he is more popular in the village whereas respondent No. 2 is not a resident of village Mehmadpur. The impugned orders suffer from illegality and

perversity and are result of non-application of mind, therefore, the same are liable to be set aside.

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

A perusal of the record shows that all the authorities have recorded concurrent findings. The District Collector after appreciating the comparative merits specifically the age as well as qualifications of the petitioner and respondent No.2 and their involvement in social activities, found respondent No.2-Sukhjinder Singh to be fit and suitable candidate for the post of Lambardar and appointed him as such. Respondent No.2 being a young energetic person is to be preferred for the post of Lambardar, therefore, he is a better candidate than the petitioner. Petitioner has been convicted in a criminal case and an FIR is pending against him. **In Mahavir Singh Vs. Khiali Ram & others, 2009(3) SCC 439**, it has been held as under:

“14. It is now a well-settled principle of law, keeping in view the decisions in regard to the appointment of Lambardar in the State of Punjab, that age of a candidate is a relevant factor.

In **Lt. Malik Abbas Khan v. Ghulam Haidar [1940 Lahore Law Times 25]**, it was stated :

"...It is certainly not wise, save in very exceptional circumstances, to appoint for the first time, an inamkhor or zaildar whose age is 60 or more."

It has also been laid down by Hon'ble the Supreme Court of India in the case of **Mahavir Singh's** (case) supra and **Lila Ram Vs. Asa Ram, 1955 Lahore Law Times 29** followed by a

Division Bench of this Court in the case of **Phool Kumar Vs. State of Haryana and others, 2010(2) RCR (Civil) 819**, that the choice of the District 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 perversity or illegality in the order passed by the District Collector. The finding of the District Collector has been affirmed by the Commissioner as well as Financial Commissioner.

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.

In view of above discussion and concurrent findings recorded by authorities below with regard to suitability of respondent no.4, present writ petition fails.

Dismissed.

11.05.2016
PA

(Paramjeet Singh Dhaliwal)
Judge