

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

LPA No. 1813 of 2015 (O&M)

DATE OF DECISION : 02.02.2016

Rajbir

.... APPELLANT

Versus

Financial Commissioner, Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Bhoop Singh, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J.

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 28.09.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 2332 of 2015) filed by the appellant, an unsuccessful candidate for the post of Lambardar of Sindher Patti of village Barta, challenging the order dated 21.10.2008 (Annexure P-4) passed by the Collector, Jind, appointing Balwan (respondent No.4 herein) as Lambardar of the village; as well as the order dated 23.01.2014 (Annexure P-8) passed by the Financial Commissioner, Haryana, upholding the said order of the Collector, has been dismissed.

Though there is delay of 33 days in filing the appeal and the appellant has filed application (CM No. 3909-LPA of 2015) for condoning

the said delay, yet we have heard learned counsel for the appellant on merits and have gone through the impugned order.

In this case, the process of appointment of Lambardar of the village was initiated on the death of the previous Lambardar. Though initially, 11 candidates submitted their applications for the said post, but later on, only 2 candidates, i.e. the appellant and respondent No.4, remained in the contest. The Collector, who is the appointing authority of Lambardar under the Punjab Land Revenue Rules (as applicable to Haryana), after considering the comparative merits of both the candidates, appointed respondent No.4 as Lambardar of the village, in the year 2008. Ultimately, the said order was upheld by the Financial Commissioner vide order dated 23.01.2014.

Before the learned Single Judge, the appellant contested the order appointing respondent No.4 as Lambardar of the village, on the ground that respondent No.4 was only 6th Class pass, whereas the appellant is 9th Class pass, therefore, he (appellant) should have been preferred for appointment to the post of Lambardar, in view of Clause (i) of Rule 15 of the Punjab Land Revenue Rules (as applicable to Haryana), which provides that the candidate for the post of Lambardar should be literate, preferably middle pass. The said contention was not accepted by the learned Single Judge, while observing that Clause (i) of Rule 15 of the Punjab Land Revenue Rules (as applicable to Haryana) is not applicable in the instant

case, as it was inserted in the year 2008 prospectively and not retrospectively. The learned Single Judge also observed that if the Collector after considering the comparative merits of the candidates appoints one person as Lambardar, then choice of the Collector should not be interfered, until and unless such an order of the Collector is totally perverse and illegal.

Learned counsel for the appellant has again raised the same point before this court. We are not inclined to accept the submission made by learned counsel. In the present case, the process of appointment to the post of Lambardar was initiated in the year 2000. At that time, there was no requirement that a candidate for the post of Lambardar must be preferably middle pass. Amendment in this regard was made in the year 2008 prospectively. It could not have been applied to the pending cases. Even otherwise, we are of the opinion that requirement of a candidate being middle pass is not mandatory. Only preference is to be given to a candidate, who has middle pass. Undisputedly, respondent No.4 is not an illiterate person. He is 6th Class pass. Therefore, it cannot be said that he is disqualified to be appointed to the post of Lambardar of the village. In our view, the educational qualifications of both the candidates in this case are almost similar. The appellant is 9th Class pass and respondent No.4 is 6th Class pass. In such a situation, the order passed by the Collector appointing respondent No.4 as Lambardar of the village, after considering the comparative merits of both the candidates, should not be interfered,

particularly when choice of the Collector has been upheld by the Financial Commissioner as well as the learned Single Judge. The scope of interference in the Letters Patent Appeal is very limited. Thus, the impugned order does not require any interference by this court.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

February 02, 2016
ndj

(HARINDER SINGH SIDHU)
JUDGE