

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

CWP No.1215 of 2017
Date of decision : 26.04.2017

Vinod Kumar

...Petitioner

Versus

Financial Commissioner Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Deepak Sonak, Advocate for the petitioner.

Mr. Indresh Goel, Addl. A.G. Haryana.

Mr. Kulbhushan Sharma, Advocate for respondent No.2.

AMIT RAWAL, J. (Oral)

Grievance of the petitioner in the present writ petition is that though Collector vide order dated 02.03.2016 after considering all the points recommended the case of the petitioner to be appointed as Lambardar but the Commissioner in appeal taken by Hukam Singh set aside the order by taking into consideration the fact which cannot be considered for disqualification vis-a-vis the petitioner.

Learned counsel for the petitioner submits that the petitioner and his father have been acquitted. Any of the act of the family members cannot be considered for disqualification. Revision preferred before the Financial Commissioner is bereft of any reasoning and has drawn the attention of this Court to the aforementioned findings.

On the contrary, Mr. Kulbhushan Sharma, Advocate for respondent No.2 submits that certificate of birth placed on record on behalf of mother of the petitioner showing that she is falling within the age group of drawing the pension, had been prepared now, whereas Commissioner had taken into consideration the voter list of 2015, whereby her age was found to be 52 years.

All these factors directly linked with the age of the petitioner and rightly so, the private respondent has been appointed as Collector, though private respondent is working as Collector which fact is evident from the notice of motion order passed by this Court.

I have heard learned counsel for the parties and appraised the paper book and of the view that operative part of the order of Financial Commissioner lacks reasoning, much less, cogent reasoning. He is enjoined upon obligation to take up all of the issues taken in the grounds of revision. Same reads thus:-

“After hearing the arguments and perusing the record I find that no new or substantial point has been raised by either of the counsel which has already not been covered in the lower court and adjudicated about. Keeping in view this fact the counsel for the petitioner could not point out any illegality or infirmity in the order passed by Commissioner, Gurgaon. I find no reason to interfere with the order of the Commissioner, Gurgaon and dismiss the revision petition.”

Expected to deal with all the points, much less, also refer provision of law as to whether any of the conduct of the member of the family is a ground for disqualification of son being appointed as lambardar

or not particularly when the order of the Collector cannot be tinkered with until and unless there is gross illegality and perversity, much less, whether the case is drawn within the parameters of the aforementioned expression or not.

Resultantly impugned order dated 23.11.2016 rendered by the Financial Commissioner, Haryana (Annexure P-5) is hereby set aside.

Matter is remitted back to the Financial Commissioner, Haryana. ROR No.282/15-16 is revived.

Parties as well as through their counsel are directed to appear before Financial Commissioner, Haryana on 15.05.2017.

Financial Commissioner, Haryana is directed to decide the matter in accordance with law by taking into consideration the rival plea and contention of the respective parties preferably within a period of three months from the date of receipt of certified copy of the order.

In view of the aforementioned observation, present writ petition stands allowed.

26.04.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No