

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

**CWP No.12659 of 2017
Date of decision:01.06.2017**

Mastan Singh

... Petitioner

Vs.

Financial Commissioner, Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jagram Singh Cooner, Advocate
for the petitioner.

Mr. Vineet Chaudhary, Advocate
for the caveator/respondent No.4.

AMIT RAWAL J. (Oral)

Notice of motion.

Mr. Vineet Chaudhary, Advocate accepts notice on behalf of
the caveator/respondent No.4.

The contention of the petitioner in the present writ petition is
that many applicants including the petitioner applied for the post of
Lambardar of village Kot Kachhua Kalan, Tehsil and District Ambala.
However, the Collector, vide order dated 11.09.2012 (Annexure P-4)
appointed Jasbir Singh as Lambardar which tantamounts to adoption of
pick and choose policy, much less on the basis of hereditary claim which
has already been deleted by causing amendment in the Land Revenue Act.
In this regard, Mr. J.S.Cooner, has drawn the attention of this Court to the
order dated 11.09.2012. The operative part of the same reads as under:-

“I have carefully heard the arguments of the counsels for all the candidates and carefully perused the case file. After hearing the arguments and perusal of record it is found that Jasbir Singh is 10th passed. He is having good character as per police report. He is grandson of deceased Numberdar Sh. Niranjan Singh. In this way he is having hereditary claim as well. He is having experience of Numberdari work. So, on the basis of above Sh. Jasbir Singh is more meritorious out of all the candidates and agreeing with the report of lower courts. I appoint him as general caste Numberdar of village Kot Kachhua Kalan, Tehsil and District Ambala in place of deceased Numberdar Sh. Niranjan Singh. Sanad Numberdari be issued. The file be consigned to record room after due compliance.”

The aforementioned order was assailed in appeal before the Commissioner and vide order dated 16.12.2014 set aside the same and remanded the matter to the District Collector. Respondent No.4 filed revision before the Financial Commissioner against the aforesaid order which was allowed.

Mr. Vineet Chaudhary, Advocate submits that the Collector had an occasion to discuss merit of all the candidates which is evident from the impugned order and on consideration of the matter, appointed his client – Jasbir Singh as Lambardar.

I am afraid the aforementioned submission of Mr.Vineet Chaudhary is not sustainable as order of the District Collector is bereft of the consideration of merit of all the candidates while giving credence to the private respondent No.4 - Jasbir Singh, by extending the benefit of hereditary claim, which no longer subsists. Concededly, the hereditary claim has been deleted/repealed by causing amendment in the aforementioned Act. The findings of the Commissioner, in my view, are perfectly valid in remitting the matter to the District Collector but the Financial Commissioner without noticing the aforementioned fact has committed illegality and perversity in affirming the same which is not sustainable in the eyes of law.

Resultantly, the order of the Financial Commissioner is hereby set aside and that of the Commissioner is restored, whereby, the order of the District Collector had already been set aside.

Let the fresh exercise be undertaken by the District Collector for filling up the post of Lambardar in accordance with law, much less by taking into consideration the observations made herein above.

Accordingly, the writ petition stands allowed.

(AMIT RAWAL)
JUDGE

June 01, 2017
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No