

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

**CWP No.17496 of 2015
Date of decision:24.04.2016**

Nirbhai Singh

... Petitioner

Vs.

Financial Commissioner (Revenue), Punjab
and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Tarunveer Vashist, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl.A.G.Punjab.

Mr. J.S.Khiva, Advocate
for respondent No.5.

AMIT RAWAL J.

The petitioner has challenged the order dated 04.03.2015 (Annexure P-7) rendered by the Financial Commissioner (Revenue), Punjab dismissing the revision petition filed against the order dated 13.08.2001 (Annexure P-5) of the Commissioner dismissing the appeal preferred against the order dated 17.07.2001 (Annexure P-3) of the District Collector, whereby, private respondent no.5, namely, Lachhman Singh, has been appointed as Lambardar.

Mr.Tarunveer Vashist, learned counsel appearing on behalf of the petitioner submits that owing to demise of Sukhdev Singh son of Bachan Singh on 20.11.1999, the post of Lambardar fell vacant and process for filling up the post was initiated. The petitioner along with other members including respondent no.5 submitted their applications. The

District Collector, vide order dated 17.07.2001 recommended the case of respondent No.5 to be appointed as Lambardar. Even the Assistant Collector Grade I, also recommended his name. It is settled law that the Collector should have applied his mind independently and should not have swayed away the recommendation of aforementioned authorities for the purpose of filling up the post of Lambardar. The petitioner is younger in age than respondent No.5 and one of the reasons for rejecting the case of the petitioner is that he was involved in an FIR bearing No.118 dated 22.05.1998 under Sections 324, 323, 34 IPC. However, during the course of matter being pending before the Financial Commissioner, the order of acquittal dated 03.10.2005 was handed over, though the Financial Commissioner has referred to the same but while giving the finding did not deal with the same.

In support of his contention, he relies upon the ratio decidendi culled out by this Court in **Bakha Singh alias Gurbax Singh vs. State of Haryana and others 2009(2) LAR 106** to contend that registration of criminal case cannot be a sole ground for not appointing the applicant as Lambardar and whether the same would yet entail a stigma are to be considered in each case on the basis of the material on record.

Per contra, Mr.J.S.Khiva, learned counsel appearing on behalf of respondent No.5 has drawn the attention of this Court to the order of the Collector to point out that registration of the case is not the ground for rejecting the candidature of the petitioner but the order appointing respondent No.5 has been on other grounds, in essence, the petitioner has only 9 bighas of land at Bhullar Munir Patti Uppli and he constructed his

residential house on the land meaning thereby the petitioner has agricultural in Dhilon Patti, whereas, respondent No.5 has the land measuring 60 bighas 18 biswas in village Dhillon Pati of village Uppli. The order of the Collector cannot be disturbed until and unless there is illegality and perversity. All the authorities have taken into consideration the matter and the concurrent finding of fact and law cannot be interfered with.

In support of his contention, he relies upon the judgment rendered by the Financial Commissioner in **Amar Chand vs. Kesho Ram 1993(2) RRR 669** to contend that whether the candidate has been convicted of indecency in public, much less not holding the land in the estate on the date he applied for Lambardari, can be a good ground for rejecting his candidature.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Tarunveer Vashist, for, on going through the orders under challenge, it is revealed that registration of FIR is not the only sole ground. No doubt, it is only during the pendency of revision petition, i.e., ROR bearing No.882 of 2001 before the Financial Commissioner, who had taken into consideration the factum of acquittal but found that the authorities have exercised the powers vested in them in accordance with law.

It is settled law that the order of the Collector cannot be read as an absolute until and unless, it is suffering from illegality and perversity. Holding of land by the private respondent in village Dhillon Pati of village Uppli than that of petitioner is also one of the criteria which has also been taken into consideration, much less the character.

There is no dispute to the ratio decidendi culled out by this Court in the judgment cited by Mr. Tarunveer Vashist, but the fact remains that demeanor of a person can also be one of the grounds of consideration for manning the post of the headman. No doubt, the petitioner had been working as Sarbarah Lambardar w.e.f. 03.10.1996 to 20.11.1999 and therefore, backed by experience. Equally so, all the factors have been taken into consideration by the Collector, affirmed by the Commissioner and Financial Commissioner are also ground for rejecting his candidature. Owning of land 60 bighas 18 biswas by the private respondent in Dhillon Patti *vis-a-vis* 9 bighas of land at Bhullar Munir Patti Uppli that too purchased by the petitioner was also weighed in the mind of the Collector.

In view of the aforementioned, I do not find any illegality and perversity in the findings rendered by the authorities below. No ground is made out for interference in the orders under challenge.

Accordingly, the writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 24, 2016

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No