

CWP No.13114 of 2017

[1]

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

**CWP No.13114 of 2017
Date of decision:05.07.2017**

Darshan Chand

...Petitioner

Versus

Financial Commissioner, Revenue, Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. P.S.Jammu, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This petition is filed to challenge the orders of the Collector, Divisional Commissioner and the Financial Commissioner, upholding the appointment of respondent no.5 as Lambardar of village Jhorarnali, Tehsil and District Sirsa.

In short, the post of Lambardar of Backward Class category of village Jhorarnali fell vacant. Applications were invited to fill up the said post and the petitioner was one of the candidates who had applied for the said post, in accordance with law. Both the recommendatory authorities, namely, the Assistant Collector 2nd Grade and the Assistant Collector 1st Grade recommended the name of respondent no.5 to the Collector for appointment of Lambardar and the Collector, vide his order dated 12.05.2010, appointed respondent no.5 as Lambardar. Aggrieved against his order, the petitioner preferred statutory appeal before the Divisional Commissioner, which was also dismissed on 23.07.2010. Still aggrieved, the petitioner and one another filed

two revision petitions before the Financial Commissioner in order to challenge the appointment of respondent no.5.

It is submitted that since the arguments were heard by the Financial Commissioner but the judgment was not pronounced for a long time, therefore, the petitioner had to approach this Court by way of writ petition for seeking a direction to respondent no.2 to pass the order on the reserved judgment. The order of this court passed in the writ petition was also not complied with and hence, it is stated that the petitioner had to file the contempt petition.

Counsel for the petitioner has submitted that respondent no.1 has, thereafter, passed the impugned order dated 12.04.2017 though the record of the case was not traceable. It is further submitted that at one point of time, the petitioner was asked to reconstruct the record and even thereafter, the petitioner was told by the office of respondent no.1 that the record of the case was still not traceable.

Be that as it may, the issue involved in this case is basically of the appointment of respondent no.5 as Lambardar. The merits of the petitioner vis-a-vis the merits of the appointed Lambardar have been considered by the Collector i.e. the Appointing Authority and it has been found that respondent no.5 is more meritorious than the petitioner. It is well settled in a catena of judgments by this Court that the choice of the Collector has to be accepted until and unless any perversity is found in his approach. The order of the Collector is upheld by the Divisional Commissioner and further by the Financial Commissioner. The authorities under the Punjab Land Revenue Act, 1887, dealing with the application filed under the Punjab Land Revenue Rules,

1909, for appointment of Lambardar, have not found any perversity in the approach of the Collector who had acted upon the recommendations made by the two authorities below i.e. the Assistant Collector 2nd Grade and the Assistant Collector 1st Grade for the appointment of respondent no.5 as Lambardar after taking into consideration the merits and de-merits of all the candidates before him.

Counsel for the petitioner has failed to point out any perversity in the orders of the authorities below i.e. consideration of inadmissible evidence by the Collector or non-consideration of admissible evidence led by the petitioner vis-a-vis the appointed Lambardar.

In view thereof, I do not find any merit in the present petition and hence, the same is hereby dismissed.

July 05, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No