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

CWP-1911-2016

Date of decision : 27.04.2017

Puran Chand

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Chanakya Pandit, Advocate
for the petitioner.

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

Mr. Aman Pal, Advocate
for respondent No.4.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 07.12.2015 (Annexure P-5) passed by the Financial Commissioner, whereby three different RORs bearing Nos.8, 9 & 10 of 2013-14 have been dismissed. The revision bearing ROR No.8 of 2014 titled as “Surinder Kumar V/s Puran Chand” filed at the instance of private respondent No.4, which is relevant for the adjudication of the present writ petition, has been allowed and the order dated 19.12.2013 of the Commissioner setting aside the order of the Collector, in respect of filling up the post of Lambardar, has been set aside.

Mr. Chankaya Pandit, learned counsel appearing on behalf of the petitioner submits that in pursuance to the post of Lambardar of Village

Labkari, Tehsil Indri, District Karnal, having been fallen vacant, the petitioner along with other persons had applied for the post of the Lambardar in respect of General Category. The Collector vide order dated 29.08.2012 (Annexure P-3), on the basis of the recommendations of the Assistant Collector Grade-I, appointed respondent No.4 as Lambardar. However, the Commissioner vide order dated 19.12.2013 (Annexure P-4) remanded the matter back on three grounds, i) *inter se* merit of the parties was not looked into; ii) legal possession of the petitioner and iii) availability of better educated candidate. However, the aforementioned order had been assailed before the Financial Commissioner, who has by relying upon the order dated 17.08.1994 (Annexure P-2) found that the petitioner had been in illegal occupation of the land in the proceedings initiated under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act') as applicable to the State of Haryana, whereas on going through the record, there is no such order of eviction/imposition of penalty, thus, there is a misrepresentation, much less, misdirection and urges this Court for setting aside the impugned order, under challenge.

Mr. Aman Pal, learned counsel appearing on behalf of respondent No.4 submits that the order of the Collector cannot be tinkered with, until and unless it is found to be erroneous and perverse. The petitioner has not able to point out the aforementioned aspect and therefore, rightly so, the Financial Commissioner/respondent No.1 while exercising the jurisdiction allowed the ROR, aforementioned, thus, urges this Court for dismissal of the present writ petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the order of the Financial Commissioner

is wholly imaginary and based upon the surmises and conjectures, much less, misdirected. For the sake of brevity, the relevant part of the same reads as under:-

"I have heard the counsels of the parties and gone through the records available on the file. I have also perused the order passed by Collector as well as Commissioner. The Collector in her order dated 29.08.2012 has held that the petitioner is a suitable candidate to be appointed as Lambardar than other candidates. He has motivated the people in the field for depositing in the small saving schemes as well as for family planning. Moreover, the AC 2nd Grade as well as AC 1st Grade had also recommended the name of the petitioner to be appointed as Lambardar. There is settled law that in the matter of appointment of Lambardar, the choice of the Collector cannot be lightly interfered unless there is a severe illegality or perversity in the choice of the Collector. The Commissioner has not pointed out any perversity in the choice of the Collector and no serious error was found in the order of Collector dated 29.08.2012. Moreover, the respondents viz. Puran Chand and Sukhbir Singh had encroached the Panchayat land and they were ejected by the AC 1st Grade vide order dated 17.08.1994. In the matter of appointment of Lambardar the person must have a clean image. Therefore, I do not find any infirmity in the orders of Collector, Karnal. Hence, the impugned order dated 19.12.2013 passed by the Commissioner, Rohtak is set aside and the orders dated 29.08.2012 passed by the Collector are upheld."

The order dated 17.08.1994 (Annexure P-2) does not, at any point of time, indicate the eviction of the Puran Chand/petitioner, who was arrayed in the proceedings initiated under Section 7 of the 1961 Act. The relevant portion of the order reads as under:-

"In these circumstances, I am evicting the respondents from the

land in dispute and is also imposing fine at the rate of ₹ 10,000/- per year per acre, which is as under: Respondent Bal Kishan son of Surja is in possession of 1 Kanal 17 Marla in Khasra No.26/14 and 0 Kanal 3 Marla in Khasra No.26/17/2/2 and in this manner is in possession of 2 Kanal. As such he is liable to pay a find of ₹ 8,000/-. Shiv Kumar son of Des Raj is in possession of 1 Kanal in Khasra No.33/6/1, therefore, is liable to pay a fine of ₹ 4000/- and Amarjeet son of Randhir has occupied 2 Kanal 8 Marla by cultivating the land in Khasra no.33/6/1, therefore, fine of ₹ 960/- is imposed upon him. Sukhbir son of Des Raj is in possession of 1 Kanal 6 Marla of Khasra No.34/5/2, therefore, he is liable to pay a fine of ₹ 5200/-. On the sought of Khasra No.189, Sukhbir has raised boundary wall on 4 Marla, therefore, he is being held liable to pay fine of ₹ 8000/-. Sukhbir Des Raj is in possession of 0-8 marla of Khasra no.192, therefore, he is liable to pay ₹ 600/- and Shiv Kumar son of Des Raj is in possession of 2-0 in Khasra No.33/6/1, therefore, he is liable to pay fine of ₹ 9600/-. Shiv Kumar son of Des Raj is in possession of 13 marla of Khasar No.192, therefore, fine of ₹ 2600/- is imposed upon him. In khasra No.82, Jaipal son of Bishna is having a Kotha in about 16 sq. yard, therefore, he is liable to pay a fine of ₹ 200/-. File after compliance be consigned to record room."

Keeping in view the aforementioned facts, the impugned order, under challenge, is not sustainable in the eyes of law and the same is hereby set aside. The matter is remitted back to the Financial Commissioner to decide the matter afresh i.e. ROR No.8 of 2014 titled as "Surinder Kumar V/s Puran Chand", keeping in view the observations made hereinabove, much less, by taking into consideration the rival contentions of the parties in a most pragmatic and objective manner as expeditiously as possible

preferably within a period of four months from the receipt of the certified copy of this order.

The parties as well as through their counsel are directed to appear before the Financial Commissioner on 10.05.2017.

With the aforementioned observations, the present writ petition stands disposed of.

27.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No