

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.185 of 2017

Date of Decision.11.01.2017

Virender Singh

.....Petitioner

Vs

Financial Commissioner, Haryana and others

.....Respondents

Present: Mr. Shailender Mohan, Advocate for
Mr. DPS Bajwa, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

Learned counsel for the petitioner contends that the impugned order dated 12.05.2016 (Annexure P-4) has been passed ex parte order without hearing the parties and without following the principles of natural justice. All previous orders declined the cases of both the parties for the post of Lambardari.

Notice of motion.

Mr. Sandeep Singh, Sr. DAG, Haryana accepts notice for respondent Nos.1 to 3.

I have heard learned counsel for the parties and appraised the paper book. The impugned order reads as under:-

“The present revision petition has been filed under Section 16 of the Punjab Land Revenue Act, 1887 against the order dated 09.02.2016 of the Commissioner, Hisar Division vide which the order dated 03.03.2015 passed by the Collector, Hisar District was upheld in which the petitioner and the respondent were not considered fit candidates for the lambardari post.

After hearing the submissions made by the counsel for

the petitioner, the instant case is remanded to the Collector, Hisar District to re-consider the candidature of the petitioner Patel Singh in view of the ratio decidendi culled laid down by the Hon'ble Supreme Court of India in 1994 PLJ 473 “Inderaj Vs. Financial Commissioner and others” that a default cannot be taken into consideration while assessing a candidate for the post of lambardar if the dues are cleared before appointment.

The candidature of the petitioner shall be considered afresh and decided within one month without taking into account that the petitioner was at one in default of payment of *abiana* dues since the same is cleared. Pending re-consideration by the Collector, Hisar District on this sole point, further proceedings regarding fresh munadi shall remain stayed.

Announced.”

The aforementioned order reveals that there is no compliance of natural justice. No notice has been issued. Had the same been issued, perhaps the petitioner would have been able to point out his grievance and put across his defence, owing to the fact he was not aggrieved of the previous order. It was only Patel Singh who was aggrieved and he was availing the remedy under the provisions of Punjab Land Revenue Act. The Financial Commissioner, Haryana, who is equivalent to the rank of Chief Secretary is expected to pass order by following the due procedure and not in a mechanical manner. Resultantly, the impugned order (Annexure P-4) is quashed and the matter is remitted back to the Financial Commissioner, Haryana for fresh consideration, in essence, the revision petition bearing ROR No.197 of 2015-16 is restored and the same shall be decided afresh after giving opportunity of hearing to the parties in accordance with law.

The order is being passed without calling the other side, as it would entail

not been adhered to.

The writ petition stands allowed.

(AMIT RAWAL)
JUDGE

January 11, 2017
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No