

CWP No.25178 of 2016

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

CWP No.25178 of 2016 (O&M)

Date of decision:26.05.2017

Jasvir Singh

... Petitioner

Vs.

Financial Commissioner Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H.S.Brar, Advocate
for the petitioner.

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

Mr. H.N.S.Gill, Advocate
for respondent No.4.

AMIT RAWAL J. (Oral)

C.M.No.2043 of 2017

The application is allowed, subject to all just exceptions. The documents, Annexures P-5 to P-8 are taken on record.

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The contention of counsel for the petitioner representing Jasvir Singh – candidate for the post of Lambardar is that though the Collector had committed illegality and perversity whilst not appointing him as Lambardar but the Commissioner being the Court of appeal after appreciating the facts, much less provisions of Section 12 of the Punjab Land Revenue Act as applicable to Punjab that the petitioner being an ex-service man and served in Kargil, has set aside the order of the Collector for not appointing him as Lambardar but the Financial Commissioner has committed illegality and

perversity, much less there is mis-direction of not taking into consideration the relevant rules, i.e., Rule 15 and certificate of the private respondent not having fulfilled the minimum qualification, i.e., 8th class and therefore, the impugned order is liable to be set aside.

Mr.H.N.S.Gill, learned counsel appearing on behalf of respondent No.4, who was selected as Lambardar by the Collector submits that the petitioner is in habit of making complaints, much less was involved in a criminal case as noticed in the impugned order by the Financial Commissioner and did not get Hon'ble acquittal, in essence, the complainant had resiled. In support of his contention, relies upon the judgment of the Hon'ble Division Bench of this Court rendered in **Jog Dihan vs. Financial Commissioner , Haryana and others 2005(1) RCR (Civil) 658**, wherein, in the matter of appointment of Lambardar, the Court had considered it as Hon'ble acquittal. The document, Annexure R-2 is the police report submitted by the petitioner *vis-a-vis* fakeness of the certificate which has been found to be correct and therefore, there is no occasion for the petitioner to invoke the extra ordinary jurisdiction of this Court to bring the case within the parameters of judicial review and urges this Court for affirming the order under challenge by dismissing the writ petition.

I have heard learned counsel for the parties and appraised the paper book.

This Court while issuing notice of motion on 16.02.2017 had also relied upon the ratio decidendi culled out by this Court in **Davinder Singh vs. Financial Commissioner Appeals (I) Punjab and others 2012**

(2) PLR 291 vis-a-vis preference given to the ex-serviceman but on juxtaposition of the aforementioned, in my view, the matter requires to be revisited in view of the provisions of Rule 15 and the ratio decidendi culled out in the judgment aforementioned, much less when there are two different opinion of the authorities, i.e., the Collector and Commissioner. The Financial Commissioner ought to have pondered upon all the aspects, allegations and cross-allegations, much less, the documents placed on record. The impugned order is hereby set aside and the matter is remitted to the Financial Commissioner, who shall decide the same after taking into consideration all the aforementioned aspects and material evidence placed on record in support of their submissions.

It is conceded position on record that respondent No.4 is already working as Lambardar. He shall continue to work as Lambardar till the Financial Commissioner decides the matter.

Let the aforementioned exercise be done within a period of two months from the date of receipt of certified copy of this order.

The parties through their counsel are directed to appear before the Financial Commissioner on 12.06.2017.

Resultantly, the writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

May 26, 2017

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No