

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 26442 of 2015

Date of decision : September 28, 2017

Kashmir Singh

..... Petitioner

Vs.

Financial Commissioner, Revenue, Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, Asstt. A.G.Punjab
for respondent Nos. 3.

Mr. Ashok singla, Advocate and
Mr. Aakash Singla, Advocate
for respondent No.4.

RAKESH KUMAR JAIN, J (oral).

This case has a chequered history. After the death of Pritam Singh, the process of appointment of new Lambardar started with a proclamation in the village. Eleven persons filed their applications but the A.C. Ist Grade did not find any person suitable and thus, did not recommend any one vide his report dated 28.10.2002 for appointment as Lambardar. However, the Collector, Sangrur, vide his order dated 14.1.2003 found respondent No.4 more suitable and appointed him as such. The said order was challenged by the petitioner by way of appeal which was allowed by the Divisional Commissioner vide order dated 23.4.2003. Now it was the turn of respondent No.4 to file appeal before the Financial Commissioner against the order of Divisional Commissioner. The Financial Commissioner, vide his order dated 13.1.2010, found both the candidates unfit and un-suitable for the purpose of appointment. As a result thereof,

both the petitioner and respondent No.4 filed their respective writ petitions in order to challenge the order of the Financial Commissioner. Both the writ petitions were disposed of by a common order dated 2.2.2012 and the order of the Financial Commissioner was set aside. The matter was remanded back to the District Collector for fresh decision.

Apropos, parties appeared before the Collector Sangrur, who again found respondent No.4 more suitable and appointed him as such vide order dated 14.9.2012. The petitioner being un-successful, challenged the order of the Collector, in appeal which was remanded by the Commissioner, vide order dated 30.7.2013. The revision petition filed by the petitioner was also dismissed by the Financial Commissioner vide order dated 7.9.2015.

Counsel for the petitioner has submitted that the Financial Commissioner has basically approved the decision of the Collector and therefore, he has focused the argument on the decision of the Collector and submitted that the Collector committed an error in ignoring the petitioner on the ground that he is not the resident of the revenue estate for which Lambardar is to be appointed.

It is further submitted that earlier in the year 1990 the big village at Patti Chhajali was bifurcated as Village Chhajali and Chhajali Kothe. It is submitted that the petitioner is landlord of both the villages but admittedly he has his residence in village Chhajali Kothe. It is further submitted that the petitioner remained Lambardar for a period of 4 ½ years and that Hadbast of both the villages is still the same, therefore, the petitioner should have been given preference by the Collector.

On the other hand, learned counsel appearing on behalf

of respondent No.4 has submitted that after bifurcation of village Chhajali, both the villages, namely, Chhajali and Chhajali Kothe were having their own Gram Panchayat and one Avtar Singh has already been appointed as Lambardar of village Chhajali Kothe.

It is also submitted that the petitioner is not resident of village Chhajali, therefore, the finding recorded by the Collector is not perverse.

He has further submitted that respondent No.4 has 12 years of experience as Sarbara Lambardar and keeping in view his over all merit, the Collector has taken a decision in his favour which has been approved by the Commissioner and Financial Commissioner respectively. It is also submitted by counsel for respondent No.4 that generally the choice of the Collector is respected until and unless his order suffers from perversity. It is argued that there is no perversity in his order. It is a matter of fact that the petitioner is not a resident of village Chhajali and is admittedly a resident of village Chhajali Kothe.

I have heard learned counsel for the parties and after perusing the record, am of the considered opinion that there is no merit in the present writ petition because as per the scheme of the Act, it is the choice of the Collector which is to be respected until and unless his approach suffers from perversity which means that either he has relied upon some evidence which is not available on record or he has mis-read the evidence which is on record. In the present case, learned counsel for the petitioner has failed to point out the evidence which is mis-read by the Collector who has only observed that the petitioner is not the resident of village Chhajali but resident of village Chhajali Kothe for which the post of

Lambardar is not in question.

Moreover, the Collector has to find out the most suitable person for the post of Lambardar. There is nothing against respondent No.4 which could come in his way for his selection for the post of Lambardar. The Collector found that respondent No.4 is grand son of previous Lambardar and has experience of 12 years as Sarbara Lambardar. He has also found that respondent No.4 was recommended by the A.C. IInd Grade (Tehsildar Sunam). Thus, he held that respondent No. 4 is more suitable than the petitioner.

In view thereof, thus there is hardly any ground in this petition for the purpose of interference. The present writ petition is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

September 28, 2017
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No