

CWP No.22380 of 2017

[1]

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

**CWP No.22380 of 2017
Date of decision:30.10.2017**

Gurpal Singh ...Petitioner

Versus
Financial Commissioner (Appeals) and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. G.S.Nagra, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (oral)

This matter pertains to the appointment of Lambardar of village Bhagokawan, Tehsil and District Gurdaspur. The Tehsildar and Sub Divisional Magistrate recommended name of the petitioner but the Collector, Gurdaspur, vide his order dated 09.02.2010, appointed Gurnam Singh (respondent no.4 herein) as Lambardar of the village. He also recorded in his order that a criminal case under Section 379 IPC is registered and pending against the petitioner at Police Station Narot Jaimal Singh, though it is alleged by the petitioner that at that time, the police had submitted cancellation report in the said case. While the matter was pending in appeal before the Commissioner at the instance of the petitioner, the said cancellation report was accepted by the Judicial Magistrate 1st Class, Pathankot on 17.04.2010 and, therefore, the blot of pendency of a criminal case against the petitioner was removed. The Commissioner, however, took into account another FIR No.177 dated 12.12.2012 and dismissed the appeal vide his order dated 19.09.2014.

The said FIR was registered under Section 306 IPC at Police Station Dhariwal, in which one Baldev Raj was prosecuted vide Sessions Case No.144 dated 30.04.2013 and was acquitted.

The case of the petitioner is that he was called in that case in regard to some inquiry by the police and he was not an accused at all. When the matter was before the Financial Commissioner, the petitioner had argued that the contesting respondent Gurnam Singh has been found to be in unauthorized possession of the panchayat land and since there was no criminal case pending against the petitioner, therefore, he was wrongly ignored by the authorities below.

The Financial Commissioner, however, found that on 08.06.2010, an order was passed by the District Development and Panchayat Officer, Gurdaspur, holding that Gurnam Singh was not in illegal possession of the panchayat land and, thus, the revision petition filed by the petitioner was dismissed on 22.02.2017.

The grievance of the petitioner is that he has been ignored by the Collector, who is the appointing authority, only on the ground that there is a criminal case pending against him, in which he was falsely implicated, which is evident from the fact that the police had ultimately submitted a cancellation report, which has been accepted by the Judicial Magistrate 1st Class on the asking of the complainant.

I have heard learned counsel for the petitioner and examined the available record in order to find out as to whether respondent no.4 is more suitable than the petitioner for appointment as Lambardar of the village.

Besides the fact that the name of the petitioner was recommended

by the Tehsildar and the Sub Divisional Magistrate, respondent no.4 is younger in age than the petitioner, being 35 years of age, equally literate being 10th class pass and owner of the agricultural land.

It is well settled that the choice of the Collector has to be respected until and unless there is a perversity in his order. The perversity is to be seen if there is some evidence on record, which has not been appreciated by the Collector and if there is a finding recorded by the Collector without there being any evidence in support thereof.

Here is a case where the Collector has found respondent no.4 more suitable and, therefore, I do not find any reason to interfere in the present petition even if the allegation of pendency of criminal case against the petitioner is not established.

Consequently, the present petition is hereby dismissed, being denuded of any merit, though without any order as to costs.

October 30, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No