

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

**CWP No.5666 of 2014
Date of decision:06.04.2017**

Harvinder Singh

... Petitioner

Vs.

The Financial Commissioner and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Kulwant Singh, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Mr. Malkiat S. Hondal, Advocate, for
Mr. R.S.Bains, Advocate
for respondent No.3.

AMIT RAWAL J. (Oral)

The grievance of the petitioner in the present writ petition is that the process for appointment of Lambardar was initiated owing to the post of Lambardar having fallen vacant. Many persons including the petitioner and respondent No.3 applied for the post of Lambardar. The petitioner is stated to be 32 years of age, passed 9th class, owns 14 acres of land and had personal influence of having 150 persons supported, much less small saving amounting to ₹3,30,000/-, whereas, respondent No.3 is 48 years of age, passed 9th class and less agricultural holding. The Collector, vide order dated 01.02.2012, did not accept the contention of the petitioner and appointed respondent No.3 as Lambardar. Before the Commissioner, an

effort was made to see the record, whereby, Certificate of Matric produced by respondent No.3 of Hindi Sahitya Sammelan Prayag Allahabad was found fake as in this regard, no evidence was brought on record. In view of the aforementioned, the Commissioner, vide order dated 26.09.2012, set aside the appointment of the private respondent and appointed the petitioner as Lambardar. Resultantly, the appeal was allowed.

The revision preferred before the Financial Commissioner has been decided in a most sketchy and erroneous manner, whereby, he has relied upon the fact that respondent is 9th class pass while setting aside the order of the Commissioner by taking eligible criteria as 8th standard pass. He has also drawn the attention of this Court to the order dated 24.12.2013 and the subsequent order thereto, whereby, the petitioner is stated to have deposited a sum of ₹3,000/- for summoning the witnesses from the concerned department to check veracity/genuineness of the document.

He further submits that conduct of candidate is to be seen in view of the ratio decidendi culled out by the Hon'ble Division Bench of this Court in **Man Singh vs. Financial Commissioner, Haryana and others** 2000(2) PLJ 568.

Per contra, Mr. Sandeep Singh Mann, learned Senior Deputy Advocate General, Haryana submits that the orders under challenge are perfectly legal and justified. The recommendation of the Collector is upheld. Once the eligibility criteria is 8th pass, therefore, the authority below has ignored the certificate of 10th class, much less no prejudice has been caused

to the petitioner. The impugned orders have been passed on the basis of preponderance of the documentary evidence.

I have heard learned counsel for the parties, appraised the paper book and of the view that the Financial Commissioner was under obligation to see the conduct of the candidate, who had failed to produce on record the original matric certificate at that relevant point of time. The relevant finding reads as under:-

“5. I have heard the arguments of the learned counsel for the parties and perused the facts available on the record. After hearing the counsel for the parties and perusal of the facts on the record, I have reached the conclusion that in this case the counsel for the appellant has leveled allegation against the respondent of the Hindi Sahitya Sammelan Prayag is fake and he has not submitted the original certificate in the Court below. This Court, during arguments, directed the respondent vide order dated 11.9.2012 to furnish the original certificate, but till 26.09.2012 the respondent did not submit the same. Instead on the date fixed, i.e.26.9.2012, the respondent appeared and stated that the original certificate is not available with him at that time. Therefore, the certificate produced by the respondent of the Hindi Sahitya Sammelan Prayag of 10th class becomes suspicious and in this situation the character of the candidate cannot be considered reliable. In contrast, the character of the appellant is proved to be of a clean image and he fulfills the

eligibility criteria for the post of Lambardar. As per Rules, it is necessary to consider the character of the candidates for the post of Lambardar. The Collector has ignored this disqualification of the respondent while passing the impugned order. In my view, the impugned order of the Collector is not in accordance with law. In these circumstances, the impugned order passed by the Collector is set aside and the appeal of the appellant is allowed and the appellant-Harvinder Singh son of Manjit Singh is appointed as the new Lambardar of General Category in village Hudian, Sub-Tehsil Mustafabad, Tehsil Jagadhari in place of deceased Lambardar, Lajpat Rai son of Pala Ram.”

The aforementioned view of mine is reiterated from the judgment rendered in Man Singh's case (supra). Paragraph 7 of the same reads as under:-

“7. We find no infirmity in the view taken by the Financial Commissioner. While appointing a person to an office of trust, his conduct is a relevant is a relevant consideration. A person who is nearly 70 years of age had tried to get the appointment by claiming that he was only 55 years old. The mistake, as observed by the Financial Commissioner, was not merely clerical. It was an attempt to get the office by claiming that the applicant was likely to discharge the duties for sufficiently long time. It was not a bona fide act.”

Thus, this aspect is required to be re-examined. Resultantly, the order dated 24.12.2013 is hereby set aside and the matter is remitted back to the Financial Commissioner to decide the controversy afresh keeping in view of the observations made herein-above. Let this exercise be done within a period of three months from the date of receipt of a certified copy of this order.

Accordingly, the writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

April 06, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No