

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.9898 of 2015

Date of Decision: March 21, 2017

Harpreet Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Amandeep Saini, Advocate,
for the petitioner.

Mr.Yatinder Sharma, Addl.A.G.Punjab,
for the State.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the order dated 27.4.2015 (Annexure P-6), on the premise that for filling up the post of Lambardar, applications were invited and scrutinised by the Sub Divisional Officer. The order dated 27.4.2015 reads thus:-

“Lambardari village Behloor Kallan

File put up and case has been called. Candidate Harpreet Singh and Gurmail Singh present. Application has been given by residents of village Behloor Kalan Tehsil Nawanshehar that no mustari munadi has been conducted in the village. Munadi has been conducted only in papers by some persons in connivance and fresh munadi may kindly be ordered to be conducted.

On the application there is signatures of sarpanch, Chanan Singh Paanch and Neelam Panch and other residents of village which shows that no munadi has been conducted regarding this lambardaari. So this case is remanded to Tehsildar

Nawanshehar that after conducting fresh Munadi, fresh applications be invited and case be forwarded to this court on merits.”

Mr.Amandeep Saini, learned counsel for the petitioner submits that the Sub Divisional Magistrate, exercising the powers of Assistant Collector, can not deal with such matters. Domain is only of the Collector. Primarily this was the contention noticed while issuing notice of motion. In support of his contention, has relied upon the judgment rendered by the Division Bench of this Court in **Civil Writ Petition No.1579 of 2015 titled as Ramandeep Kaur Versus State of Punjab**, the relevant portion of which reads thus:-

“In our considered view, the above-stated order suffers from at least two patent illegalities, namely, that instead of remanding the case to the naib tehsildar for de novo consideration, the sub-divisional magistrate ought to have put up the case before the competent authority, i.e., the collector, Nawanshahar along with his opinion-cum-recommendation.”

Learned State counsel does not dispute the aforementioned order.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the Sub Divisional Magistrate would not have any jurisdiction for remanding the matter to the Tehsildar for conducting fresh munadi. He is only to see the applications and forwarded the same to the Collector with the recommendation of the concerned authorities for the purpose of consideration. Thus, the order is not sustainable being without jurisdiction. Resultantly, the same is set-aside.

Writ petition stands allowed with the aforementioned observations.

The parties, through their counsel, are directed to appear before the Deputy Commissioner concerned on 7.4.2017 for onwards action in pursuance to the applications, which were received.

March 21, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No