

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

CWP No.6589 of 2017

Date of Decision.30.03.2017

Aman Singh

.....Petitioner

Vs

State of Haryana and others

.....Respondents

Present: Mr. Kamaldeep S. Sidhu, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner is aggrieved of the impugned orders dated 20.09.2016 (Annexure P-3) passed by the Financial Commissioner and 23.05.2014 (Annexure P-1) by the Collector whereby respondent No.4- Jagbir Singh had been appointed as Lambardar.

The contention of Mr. Sidhu, learned counsel appearing on behalf of the petitioner is that on account of vacancy for the post of Lambardar, many candidates including the petitioner had applied. The petitioner is young, energetic, educated and actively participated in the activities for the welfare of the people of the village, motivated people for doing small savings, participated in cleanliness mission, literacy mission and polio eradication mission. He owns 16 acres of land which is more than the adequate security for the post. He had past experience and had been performing as Sarbarah Lambardar. He was recommended by the present and ex-Sarpanches yet the Collector did not find favour. The Commissioner in appeal extensively and in detail found that the petitioner was most suitable candidate. It was also noticed that the Collector had not acceded to

of the counsel.

He also relied upon the unreported judgments of this Court passed in CWP No.9326 of 2016 on 15.12.2016 titled as Mohinder Singh Vs. The Financial Commissioner, Harayana and others; Ram Kumar Vs. Financial Commissioner, Haryana and others passed in LPA No.2157 of 2013 on 28.04.2014 and Shri @ Siri Niwas Vs. State of Haryana and others passed in CWP No.7536 of 2011 on 20.03.2013 to contend that the case of theft of electricity would not be a ground for disqualification for appointment of Lambardar. The Financial Commissioner could not have set aside the order. At the best, he could have remanded the matter to the Collector to redetermine the controversy.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Sidhu, for, it is settled law as per the ratio decidendi culled out in **Mahavir Singh Vs. Khiali Ram and others 2009(3) SCC 439**, the recommendation of the Collector cannot be tinkered with unless and until the same is lacking application of mind, much less, suffers from perversity and arbitrariness.

The Commissioner could not have done the comparison of only the petitioner and the appointed candidate. He should have heard the case from all the aspects and the applications of other candidates should have also been considered. No doubt, the petitioner had an experience of Sarbarah Lambardar but qualification of the respondent is also on same platform.

I am in agreement with the submission of Mr. Sidhu that theft of electricity would not be a ground for disqualification but the fact remains

that the petitioner had been a witness in the FIRs indicated in the order, though the FIR was found to be incorrect. He faced trial in a *kalandra* under Section 182 IPC against him and others but he was acquitted in the said case. The demeanour of the petitioner is also one of the reasons, for not appointing him as Lambardar. The aforementioned view of mine is derived from the ratio decidendi culled out by Division Bench of this Court in *Kabul Singh Vs. The Financial Commissioner Punjab 2006(3) RCR (Civil) 313.*

For the reasons aforementioned, the finding of Collector is perfectly legal and justified and cannot be said to be vitiated in law and hereby restored. No ground for interference is made out. The writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

March 30, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No