

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

**L.P.A. No.202 of 2016 (O&M)
Decided on : 10.08.2017**

Major Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. H.S.Brar, Advocate,
for the appellant.

Mr. H.S.Sullar, DAG, Punjab,
for respondents No.1 to 4.

Mr. Umesh Kumar Kanwar, Advocate,
for respondent No.5.

MAHESH GROVER, J. (Oral)

CM-408-LPA-2016

For the reasons mentioned in the application and the fact that the appellant was not impleaded as party to the proceedings, the explanation given for delay in filing the appeal is justified and hence delay of 950 days in filing the appeal is condoned.

Main case

Order dated 25.4.2013 has been impugned before us.

It would be necessary to advert to the facts of the case. On

25.2.2010, the Collector, SBS Nagar, passed an order after considering the claims of numerous aspirants for the post of Lambardar to appoint Jaswinder Singh-respondent No.4 herein as Lambardar.

Appellant-Major Singh as also other unsuccessful candidates, i.e. Harbhajan Singh-respondent No.5 challenged this order before the Commissioner who vide his order dated 25.7.2011 selected Harbhajan Singh as Lambardar.

At this point of time, Financial Commissioner was not having revisional powers and consequently, the present appellant-Major Singh filed CWP No.23907 of 2011 but during its pendency, the revisional powers were restored to the Financial Commissioner resulting in remand to the said authority for decision of the dispute vide orders of this Court dated 20.3.2013.

It is pertinent to mention here that both Jaswinder Singh and Harbhajan Singh the other contestants were parties in the said writ petition, i.e., 23907 of 2011. In the meantime, the other contestant, i.e., Jaswinder Singh challenged the order of the Commissioner dated 25.7.2011 before the Financial Commissioner who accepted the appeal vide his order dated 4.10.2012 to appoint Jaswinder Singh as Lambardar.

The fact that needs special mention here is that the present appellant was not impleaded as party to these proceedings and even though Jaswinder Singh was a party in CWP No.23907 of 2011 which was disposed of on subsequent date then to the orders of the Financial Commissioner appointing Jaswinder Singh as Lambardar, he chose not

to disclose this fact to the writ Court who disposed of the writ petition in March, 2013. Harbhajan Singh then filed CWP No.8528 of 2013 by impleading only Jaswinder Singh and not the present appellant resulting in the impugned order dated 25.4.2013 upholding the order of the Financial Commissioner choosing Jaswinder Singh as a Lambardar.

Learned counsel for the appellant contends that his cause has been seriously prejudiced as he was neither impleaded as party before the Financial Commissioner resulting in favourable order to Jaswinder Singh nor was he impleaded as party respondent in the writ petition even though he has been contesting the issue after the passing of the order by the Collector himself. He thus, contends that respondent No.4-Jaswinder Singh has clearly suppressed the facts from the writ Court when it was dealing with CWP No.23907 of 2011 by not disclosing order of the Financial Commissioner dated 4.10.2012 in his favour.

The facts are not controverted by the respondents.

After hearing the learned counsel for the parties, we are of the opinion that it has resulted serious prejudice to the appellant as he has not been heard even though he was vigilant and alert enough to pursue his remedies as he was not impleaded as a party respondent before the Financial Commissioner and in the writ proceedings. He has been deprived of an opportunity of presenting his claim and, therefore, it would be in the fitness of things if the impugned order of the writ Court as also the Financial Commissioner dated 4.10.2012 are set aside and the matter remitted to the Financial Commissioner to decide the

issue of Lambardari afresh by hearing all the three contestants, namely, Major Singh-appellant, Harbhajan Singh-respondent No.5 and Jaswinder Singh-respondent No.4.

At this stage, it is pointed out that Harbhajan Singh has since expired.

Consequently, we direct that the matter be decided afresh by hearing the appellant and Jaswinder Singh-respondent No.4. Since the issue is pending for the last 7 years, it would be just and appropriate to give further direction that Financial Commissioner concludes the process within a period of 3 months after appearance.

Parties shall put in appearance before the Financial Commissioner on 5.9.2017.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

August 10, 2017

Paritosh Kumar

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No