

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

LPA No.288 of 2016 (O&M)

Date of Decision : 29.09.2017

Harbans Singh

..... Appellant

Versus

State of Punjab and others

..... Respondent

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

Present : Mr. Shamsheer Singh Gill, Advocate
for the appellant.

Mr. P.P.S.Thethi, Addl. A.G., Punjab.

Mr. Sherry K.Singla, Advocate
for respondent No.4.

MAHESH GROVER, J. (Oral)
CM No.608-LPA of 2016

This is an application for condonation of delay of 22 days in filing the appeal.

Heard. For the reasons, mentioned in the application, the same is allowed. Delay of 22 days in filing the appeal is condoned.

Main case

This appeal is directed against the judgment dated 02.12.2015, passed by the learned Single Judge.

The appellant who was removed from the post of Lambardar on 06.04.1999 challenged the said order before the Revenue Authorities and ultimately a writ petition was filed which was also dismissed.

After his removal in the year 1999, a fresh process of appointment of lambardar was initiated and respondent No.4 was appointed

candidate but he was not selected. Eventually, after a challenge was mounted regarding appointment of respondent as lambardar before the competent authorities as also in the writ proceedings, the prayer was declined. In short, the appointment of the respondent as a lambardar was affirmed. Therefore, the present appeal which is directed against the dismissal of the appellant would be inconsequential for the post of lambardar in view of the appointment of respondent as such.

We have, however, considered the grievance of the appellant which directed against the dismissal. A perusal of the order of the Collector reveals that the appellant was given a show cause notice and also personal hearing before the impugned order of dismissal was passed. The allegations against the appellant were of threatening the revenue official and the Collector has acted on the report of the Circle Revenue Officer and Sub Divisional Magistrate, Payal.

These details have been elaborately set up in the order of the Collector dated 06.04.1999.

In the matters of appointment of lambardar, the choice of the collector necessary has to be respected unless it is based on perversity. On the same logic we would say that the Collector's order would assume great significance in the matters of dismissal of the headman and the order passed on the basis of inputs gained from the revenue officer. As such the same would ordinarily be accepted, unless, the appellant shows complete perversity in the matter. We have also seen the reply submitted by the appellant to the show cause notice issued to him before the impugned order was passed.

All that, he has said, that he was insisting on removing the encroachment from a passage which had angered certain people as also few revenue officials. These would be disputed questions of facts and cannot be accepted.

No legal infirmity has been shown in the process of dismissal. Section 16 of the Punjab Land Revenue Rules has been relied upon by the learned counsel for the appellant which we extract here below:-

“Dismissal of headmen-- (i) a headman shall be dismissed when

(a) to (e)

xxxx

xxxx

xxxx

xxxx

(ii) A headman may be dismissed when -

(a) criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of his office; or

(b) he is seriously embarrassed by debt, or if his unencumbered holding is so small as to disqualify him in the Collector's opinion for the responsibility attached to the office of headman; or

(c) owing to age or physical or mental incapacity, or absence from the estate, he is unable to discharge the duties of his office; or

(d) there is reason to believe that he has taken part in, or concealed illicit distillation, or the smuggling of cocaine, opium or charas;

(e) he takes part in any unconstitutional agitation against the Government or fails to give his active support to the Government in the maintenance of law and order;

(f) he neglects to discharge his duties, or is otherwise shown to be incompetent; or

(g) the estate or sub-division thereof, in respect of which he holds office, or his own holding is attached either for an

arrears of land revenue or by order of any court.”

We are of the opinion that Clause F which talks of dismissal in case one neglects to discharge duties or is otherwise shown to be incompetent would also cover the misconduct ascribed to the appellant.

Therefore, finding no ground to interfere, the instant petition stands dismissed.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

29.09.2017
mamta-M

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No