

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

CRM-M-28664 of 2017
Date of Decision: 14.08.2018

Ashok Kumar Sandhu

....Petitioner

Versus

State of Punjab and anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Vishal Deep Goyal, Advocate, for the petitioners.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. G.S. Madaan, Advocate, for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing FIR No.25, dated 27.04.2016 (Annexure P-1), under Sections 420/192/197/199/120-B IPC, registered at Police Station Noormahal District Jalandhar (Rural), and all subsequent proceedings arising therefrom.

Reply filed by respondent No.2 in Court today, is taken on record. Office to tag the same at appropriate place.

Briefly, upon death of the Lumbardar of Village Noormahal on 24.03.1985, who was none-else, but grand-father of the petitioner, pursuant to the advertisement applied vide application (Annexure P-2) dated 17.07.2000 to Tehsildar of Sub Tehsil Noormahal for appointing him as such. Whereupon, applications from general public for appointment of Lumbardar were invited to select a suitable person. Consequently, four persons applied for the same. On consideration of the merit, Naib Tehsildar

Noormahal on 17.10.2000 directed Incharge Police Station Noormahal to

verify the character and antecedents of all the applicants (Annexure P-3 colly). After receipt of verification report of all the applicants on 24.11.2000, Naib Tehsildar recommended the name of the petitioner for being appointed as Lumbardar. Pursuant thereto, on 18.05.2001, District Collector, Jalandhar, appointed the petitioner as Lumbardar of Village Noormahal (Patti Mohalla Killa) against vacant post. The petitioner started discharging his duties as such, since the date of his appointment on 18.05.2001. However, after 15 years, respondent No.2 got registered aforesaid FIR against the petitioner on the ground that the petitioner had got himself appointed as Lumbardar illegally, concealing the factum of pendency of a criminal case against him.

Learned counsel for the petitioner *inter alia* contends that there was no requirement of any declaration by any of the candidates or the petitioner while applying for the post of Lumbardar against a vacant post to disclose as to whether any criminal case was pending against him. The petitioner never concealed anything from the Government functionaries. There is nothing on the record that the petitioner was ever convicted in any criminal case. Therefore, the impugned FIR is liable to be quashed. In support of his contention, learned counsel has placed reliance on the decision of this Court in Prithvi Singh Vs. Financial Commissioner, Revenue Haryana and others, 2008(1) L.A.R 635.

On the other hand, learned counsel for respondent No.2-complainant, vehemently opposing the above arguments of learned counsel for the petitioner, submits that the petitioner, in violation of Rule 15 of the Punjab Land Revenue Rules, had got him appointed as Lumbardar.

Therefore, he is liable to be disqualified and to face trial in the aforesaid

Having considered the submissions made by learned counsel for both the sides, I find merit in the instant petition for the reasons to follow:-

There is nothing on the record that the petitioner was ever convicted in FIR No.90, dated 09.12.1993, under Sections 323/324/325/34 IPC, registered at Police Station Tanda, District Hoshiarpur. In reply, the complainant has admitted that in aforesaid FIR, the petitioner has been acquitted.

No prescribed proforma has been produced on record, which was allegedly required to be filled by the petitioner for applying for the post of Lumbardar or that there was any such column, in which the pendency of any criminal case was required to be disclosed by him. Undisputedly, the petitioner was appointed as Lumbardar of Village Noormahal after verifying his antecedents and character by the police in compliance to the directions dated 17.10.2000 of the Naib Tehsildar Smt. Sukhbir Kaur. The police in its report never reported anything adverse against the petitioner. There is no evidence on record that the petitioner ever concealed any thing from the statutory bodies.

Consequently, the instant petition is allowed. The aforesaid FIR No.25, dated 27.04.2016 (Annexure P-1) and all subsequent proceedings arising therefrom, are quashed.

14.08.2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No