

CWP-16605-2016

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

CWP-16605-2016

Date of Decision: November 21, 2018

Satish

...Petitioner

Versus

Financial Commissioner, Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Bhag Singh, Advocate,
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. Bhup Singh Chaudhry, Advocate for
Mr. Suvir Sheokand, Advocate
for respondent No.3.

AUGUSTINE GEORGE MASI, J. (ORAL)

It is the contention of the learned counsel for the petitioner that the initial order of appointment of respondent No.3 – Dharam Singh, dated 20.07.2014 (Annexure P-1), indicates that the petitioner was not present and one Dharam Singh had appeared and got himself marked. The Collector, without considering the merit of the other candidates, had proceeded to pass an order appointing Dharam Singh as the Lamberdar of village Patti Afgan. The said order was challenged by the petitioner and the Commissioner, Ambala Division, Ambala, vide order dated 28.08.2015 (Annexure P-2) remanded the case to the Collector for fresh decision. The parties were also directed to appear before the Collector. The said order was challenged by respondent No.3 – Dharam Singh before the Financial Commissioner,

Haryana, who allowed the revision petition vide order dated 31.05.2016 (Annexure P-3), wherein, it has been stated that Dharam Singh had met with an accident and admitted in hospital on 19.07.2014 and discharged on 23.08.2014. If that be so, there is no question that respondent No.3 – Dharam Singh would have appeared before the Collector when the order dated 22.07.2014 was passed. He, therefore, contends that the order passed by the Financial Commissioner dated 31.05.2016 (Annexure P-3) be set aside and the order dated 28.08.2015 (Annexure P-2) passed by the Commissioner, Ambala Division, Ambala, be upheld, whereby, the case was remanded to the Collector for fresh decision.

Learned counsel for respondent No.3 contends that the order passed by the Collector dated 20.07.2014 (Annexure P-1) clearly indicates that respondent No.3 – Dharam Singh had come present in its Court and he was heard also, therefore, it cannot be doubted that respondent No.3 – Dharam Singh had appeared before the Collector. He, thus, contends that the order passed by the Financial Commissioner dated 31.05.2016 (Annexure P-3) deserves no interference.

Having considered the submissions made by the learned counsel for the parties and keeping in view the factual aspect, according to which, respondent No.3 – Dharam Singh was admitted in hospital from 19.07.2014 till 23.08.2014, it would be difficult to accept that respondent No.3 – Dharam Singh had appeared before the Collector when the case was decided on 22.07.2014. In any case, putting the matter to an end, this Court, in equity, is of the considered opinion that the matter be remanded to the

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Collector for fresh decision on merits by giving an opportunity of hearing to both the parties/their representatives and pass a speaking order on consideration of their respective claims.

In view of the above, order dated 31.05.2016 (Annexure P-3) passed by the Financial Commissioner and order dated 20.07.2014 (Annexure P-1) passed by the Collector are hereby set aside upholding the order dated 28.08.2015 (Annexure P-2) passed by the Commissioner, Ambala Division, Ambala. Parties are directed to appear before the Collector on 18.12.2018.

The present writ petition stands disposed accordingly.

(AUGUSTINE GEORGE MASIH)
JUDGE

November 21, 2018
Harish

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