

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

CWP No.12079 of 2018
Date of decision: 14.05.2018

Chamkaur Singh

.... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.D.J.Bhoriwal, Advocate for
for the petitioner.

Avneesh Jhingan, J.

The present writ petition has been filed for quashing of orders dated 26.05.2017 & 20.02.2018 (Annexures P-2 & P-3) whereby the Commissioner, Ferozepur Division, Ferozepur had remanded the case to District Collector, Ferozepur to decide the appointment of Lambardar of village Wan, Tehsil and District Ferozepur after verifying the address of the petitioner. The said order was upheld in revision.

The post of Lambardar of village Wan had fallen vacant on 24.06.2013, due to death of Lambardar Gurdev Singh son of Harditta Singh, the process for appointment of lambardar was initiated. Twelve applications were received. Vide order dated 29.07.2015, the petitioner was appointed as Lambardar of village Wan.

The said order was challenged in appeal by one Kuldeep Singh son of Veer Singh, one of the candidate who had also applied for the said

post. One of the objection taken was that the petitioner was not permanent resident of village Wan and he has got prepared a ration card of village Ratul Rohi. Commissioner Ferozepur, Division Ferozepur accepted the appeal and set aside the impugned order and remanded the matter back to the District Collector, Ferozepur for deciding matter afresh after hearing both the parties and after verifying whether the petitioner was permanent resident of village Ratul Rohi or Wan.

Aggrieved of the said order, the petitioner challenged the same before Financial Commissioner (Appeals) Punjab, Chandigarh. Vide order dated 20.02.2018, the order passed by the Commissioner Ferozepur Division Ferozepur dated 26.05.2017 was upheld.

Aggrieved of the orders, the present writ petition has been filed.

Learned counsel for the petitioner argued that there is no specific provision in the Act that the person who is to be appointed as Lambardar must be the resident of the same village. The only requirement is that he should have estate in the village concerned. He relies upon the decision of this Court in case of **Duli Chand vs. State of Haryana and another, 2012(3) PLR 324**. He argued that once the Collector had appointed him as Lambardar, the choice of Collector should not be interfered by the higher authorities. Reliance is placed upon the decision of this Court in **Rattan Singh vs. Finanacial Commissioner, Appeals, Punjab and another, 2016(3) RCR (Civil) 653**.

The contentions raised by learned counsel for the petitioner are

not well founded.

The issue, at present, is not whether there is pre-requisite of a person being the resident of the same village for appointment of Lambardar or not? Since the matter has been remanded, this issue may not be decided at this stage. But the fact remains that when the Collector has to consider the appointment of Lambardar, one of the factor to be considered is whether he is the resident of village or nor? It is only on consideration of various factors that an appointment is made. Needless to say that if a person is the resident of same village, he would be available to the villagers 24X7 and even at odd hours.

There can be no dispute on the legal proposition that generally the choice of Collector should not be interfered. This argument cannot be stretched to mean that the statutory appeals provided are only a futile exercise. In the present case, a factual dispute has arisen that the person so appointed is not the resident of the village Wan which has not been taken into consideration. It was argued in appeal that he has a ration card of village Ratul Rohi, though the petitioner disputes this fact. The disputed question of fact cannot be decided in a writ petition. It would be pertinent to note that at this stage even with the writ petition, petitioner has filed the ration card of his wife and his own ration card.

Without expressing any opinion on the said issue, the writ petition is dismissed as no interference is called for in the writ petition as no prejudice has been caused to the petitioner by remand of the matter. It is a factual verification which can only be done by the authorities and not by

this Court in this writ petition.

(AVNEESH JHINGAN)
JUDGE

14.05.2018

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No