

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

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C.W.P No. 13493 of 2018

Date of decision: 10.09.2018

Gurdial Singh

... Petitioner

Vs.

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Ms. Amandeep Soni, Advocate, for the petitioners.

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

G.S.SANDHAWALIA, J. (Oral)

The petitioner is challenging the order dated 01.03.2018 (Annexure P-6) of the Financial Commissioner (Appeals), whereby the matter has been remanded after setting aside the order of District Collector Tarn Taran, dated 31.03.2015 with a direction that fresh applications be called for the post of Lambardar. The petitioner has been given liberty to apply afresh and his application is to be considered alongwith fresh applications.

Counsel for the petitioner has vehemently argued that the private respondent – Jarnail Singh had been appointed and his application was time barred and therefore since the petitioner had contested as such against the said appointment before the Commissioner and thereafter upto the Financial Commissioner the directions issued that the matter be re-examined by calling a fresh applications is without any basis and therefore, he should be appointed against the vacancy as such.

The argument is to be noticed and rejected. It is to be seen that when the applications of appointment of Lambardar were called apart from

the petitioner, there were as many as four more applicants. The Collector had examined the merits of all before going on to appoint the private-respondent – Jarnail Singh which order had been upheld in appeal by the Commissioner Jalandhar on 03.08.2016 (Annexure P-4). A perusal of order of Financial Commissioner would go on to show that private respondent was living abroad continuously and that the said fact was also admitted by counsel for the respondents. In such circumstances it was held that the District Collector had not taken into account the real merits and demerits of all the candidates and had not seen the record properly. The factum has further been confirmed by the fact that notice issued to respondent No.5 has also now been received back with the report that he is residing abroad. It is thus apparent that the said respondent would not be liable to be appointed as Lambardar as his absence as such is a handicap that the people of the village would face as his services would not be readily available. In such circumstances the Financial Commissioner was correct in remanding the matter.

The petitioner has no right as such for appointment and it is for the Collector to apply his mind afresh and as per settled principle it is the choice of the Collector which is to be kept in mind. Once the Collector had not as such approved the matter of appointment of the present petitioner on default, he is not liable to be permitted only because he was successful in the appeal preferred before the Financial Commissioner for different reasons qua Jarnail Singh. Even otherwise, the petitioner would not be affected in any manner. Merely because at that point of time he was one of the applicants and has been litigating for his rights would not as such give

him a right of appointment without the Collector giving a stamp of approval to the petitioner. Resultantly, there is no error in the order of Financial Commissioner warranting any interference.

Petition is dismissed accordingly.

September 10, 2018
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(G.S. SANDHAWALIA)
JUDGE

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