

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

115

CWP-13745-2018

Date of decision: 17.10.2018

Komal Singh

....Petitioner

Versus

Financial Commissioner (Appeals) Punjab & others

...Respondents

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

Present: Mr.R.S.Chauhan, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order passed by the Financial Commissioner dated 15.02.2018 (Annexure P-4) whereby the appointment of the petitioner was set aside and the matter has been remanded to the District Collector, on the ground that proclamation was not done in a proper manner and the same was done in haste. Therefore, a finding was recorded that the private-respondent No.4, who was the petitioner before the Financial Commissioner and an Ex-serviceman, had been short-changed and had not been given a chance to apply. It was, in such circumstances, the matter has been remanded to the District Collector to conduct munadi again and to decide the matter afresh, by accepting the revision petition.

Counsel for the petitioner has vehemently argued that once the appointment had been made by the Collector and upheld by the Commissioner on 10.02.2015 (Annexure P-2), the same should not have been interfered with by the Financial Commissioner.

The said argument is not liable to be accepted, in as much as, if the order of the Deputy Commissioner dated 30.01.2014 (Annexure P-1) is examined in detail, it would go on to show that private-respondent No.4 Jagdev Singh had raised an objection that the Patwari Halka did not conduct the proclamation in Village Hadiwal regarding the filling up of the post of Lambardar and he had retired from Military and therefore, lost his chance to apply.

The Collector, while noticing the said argument, failed to deal with the said issue at all and started dealing with the merits of the case and in a stereotype manner, appointed the petitioner without even noticing that there was no competition at all. Neither the order shows that there was any other application but the merits of the petitioner had still been discussed and the petitioner had been appointed. It is, in such circumstances, the Financial Commissioner rightly interfered with the said order of the Deputy Commissioner, which was perverse, as the prescribed procedure had not been followed. The Commissioner had failed to address the said issue and again, upheld the order on the ground that due consideration had to be given to the recommendations of the Collector and there was no demerit in the person appointed.

Once the munadi itself had not been conducted in a proper manner and other persons had not been given a chance, the Financial Commissioner was well justified in remanding the case for fresh decision, after dealing with the record and therefore, no fault can be found in the said order. Even otherwise, petitioner has not been debarred in any manner and he is always free to contest after all the applications are invited. Needless to say that once he had applied, he will be eligible to contest for the post of Lambardar and need not apply afresh.

Writ petition stands disposed of, in the above-said terms, upholding the order dated 15.02.2018, passed by the Financial Commissioner.

17.10.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

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