

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
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**CIVIL WRIT PETITION NO.17254 OF 2018
DATE OF DECISION: JULY 18, 2018**

Jai Singh

.....Petitioner

VERSUS

Financial Commissioner, Punjab, Chandigarh and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Munish Puri, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J.

Challenge in this writ petition is to the order dated 24.01.2018 (Annexure P-6) passed by the Financial Commissioner, Revenue, Punjab, dismissing the revision petition of the petitioner, orders dated 27.11.2013 and 06.10.2016 (Annexures P-2 and P-5 respectively) passed by Commissioner, Jalandhar Division, Jalandhar, order dated 28.11.2014 (Annexure P-3) passed by the Collector, Pathankot, whereby order dated 20.10.2010 (Annexure P-1) passed by the Collector, Gurdaspur, appointing the petitioner as Lambardar of Village Jhajeli, Tehsil and District Pathankot, was set-aside.

It is the contention of learned counsel for the petitioner that after due consideration of the names of the petitioner as well as Swaran Singh (respondent No.4 herein), who was also a candidate for appointment to the post of Lambardar of Village Jhajeli, District Collector, Gurdaspur, vide order dated 20.10.2010 (Annexure P-1) appointed the petitioner as

Lambardar of the village, which order was challenged by Swaran Singh, respondent No.4 by way of an appeal before the Commissioner, Jalandhar Division, Jalandhar, who allowed the same vide order dated 27.11.2013 (Annexure P-2) by setting-aside the order dated 20.10.2010 and remanded the case to the District Collector, Gurdaspur, for fresh decision. It is thereafter that the Deputy Commissioner-cum-Collector, Gurdaspur, vide order dated 28.11.2014 (Annexure P-3) concluded that neither the petitioner nor respondent No.4 were fit for appointment to the post of Lambardar and ordered fresh proclamation, which was initially conducted in the year 2008, to be conducted now in the year 2014 as six years had passed. Against this order, both the candidates i.e. the petitioner and respondent No.4 filed appeals before the Commissioner, Jalandhar Division, Jalandhar, and the same were dismissed vide order dated 06.10.2016 (Annexure P-5), upholding the order passed by the District Collector, Pathankot. The revision petition preferred by the petitioner has also been dismissed by the Financial Commissioner vide order dated 24.01.2018 (Annexure P-6), upholding the orders passed by the District Collector and the Commissioner, Jalandhar Division, Jalandhar.

Counsel for the petitioner, after giving the abovesaid details, asserts that a well reasoned and justified order dated 20.10.2010 passed by the District collector, Gurdaspur, whereby the petitioner was appointed as a Lambardar of Village Jhajeli, wherein the comparative merit of both the candidates was considered, has been wrongly set-aside by the Commissioner, Jalandhar Division, Jalandhar, vide order dated 27.11.2013 (Annexure P-2) on an erroneous assumption that the petitioner was involved in criminal case and, therefore, was not fit for appointment to the post of

Lambardar whereas the fact remains that he stands acquitted after the trial in criminal case and, therefore, it cannot be a valid ground for not considering him fit for appointment to the post of Lambardar. His assertion, especially in the light of the fact that respondent No.4, Swaran Singh, has been found to be a person who was debtor of Punjab Water Resources Management & Development Corporation Limited, Pathankot, to the tune of Rs.6,725/-, is that upholding of the said order by the Appellate Authority as well as the revisional authority cannot be said to be justified in the light of the judgments passed by this Court in Harjinder Singh Vs. State of Punjab and others, 2017 (1) R.C.R. (Civil) 659, Harbhagwan Singh Vs. Financial Commissioner (Revenue), Punjab and another, 2012 (67) R.C.R. (Civil) 658 and Kashmiri Lal Vs. Financial Commissioner, Appeals-II, Chandigarh and others, 2012 (57) R.C.R. (Civil) 208. He states that as per the above referred judgments on acquittal of an accused, who is involved in a criminal case, the stigma would not persist. He, thus, contends that the petitioner having been acquitted in the criminal case vide judgment dated 01.09.2009 i.e. prior to the date of his appointment as Lambardar could not have been denied the appointment to the post of Lambardar. He, therefore, submits that the present writ petition may be allowed and the impugned orders, Annexures P-2, P-3, P-5 and P-6 be set-aside by upholding the order dated 20.10.2010 (Annexure P-1) whereby the petitioner was appointed as Lambardar.

Having considered the submissions made by learned counsel for the petitioner and having gone through the impugned orders, this court is not inclined to interfere in exercise of its extra ordinary writ jurisdiction in the light of the fact that may be Swaran Singh, respondent No.4, was a

defaulter and held to be a debtor of Punjab Water Resources Management & Development Corporation Limited, Pathankot, to the tune of Rs.6,725/- and, therefore, would be ineligible for consideration for appointment to the post of Lambardar but the antecedents of the petitioner are also not over board. In the complaint, which was filed against the petitioner alongwith others under Sections 419, 420, 467, 468, 471 IPC read with Section 120-B IPC, petitioner alongwith others, was acquitted by giving benefit of doubt as is apparent from the judgment of Judicial Magistrate Ist Class, dated 01.09.2009 (Annexure P-7) and, thus, it was not a clear acquittal. A person to be appointed to the post of Lambardar should be enjoying a good reputation and unblemished image but this is not the case of the petitioner when seen in the context of the allegations in the FIR and the responsibility he has to fulfill on appointment as Lambardar. Similar view has been taken by the court in case of Sukhjinder Pal Singh Vs. State of Punjab and others, 2016 (3) RCR (Civil) 725. Consequently, the judgments relied upon by counsel for the petitioner would not hold the field in favour of the petitioner in the facts and circumstances of the present case.

That apart another factor, which has weighed in the mind of the District Collector, Pathankot, was the period of six years, which had passed by since the year 2008, when the first proclamation was issued for appointment to the post of Lambardar.

It has rightly been taken note of the aspect that there is every possibility of finding suitable person in the village who may have good moral character and could be appointed on the post of Lambardar of the village. Looking at it from the point of view that now more than 10 years from the first proclamation for appointment to the post of Lambardar have

passed by now, this Court is not inclined to interfere in the impugned orders.

It may be added here that the petitioner is asserting his right of appointment as Lambardar on the basis of the order dated 20.10.2010 passed by the District Collector, Gurdaspur,, which order was set-aside by the Commissioner, Jalandhar Division, Jalandhar, on an appeal preferred by respondent No.4, remanding the case back for fresh decision. This order of remand was not challenged by the petitioner and, therefore, his claim on the basis of order dated 20.10.2010 is misplaced.

In view of the above discussion, there is no merit in the writ petition and, thus, the same stands dismissed.

July 18, 2018	(AUGUSTINE GEORGE MASIH)
khurmi	JUDGE
Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No