

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

**Civil Writ Petition No.19664 of 2018
Decided on : 26.09.2018**

Gurwinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present : Mr. A.P. Kaushal, Advocate for the petitioner.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the concurrent findings of the authorities below, whereby respondent No.4-Manjit Singh has been appointed as Lamberdar in preference to the petitioner for village Akhara, Tehsil Jagron, District Ludhiana.

Counsel for the petitioner has vehemently attacked the orders of the Collector, Ludhiana dated 16.02.2015 (Annexure P-1), which has been upheld by the Commissioner, Patiala on 04.02.2016 (Annexure P-2) and further upheld by the Financial Commissioner (Appeals) vide order dated 14.11.2017 (Annexure P-3). The ground for interference is that the petitioner was only 24 years old and, therefore, being a younger person should have been preferred qua the petitioner who is 62 years old. It is further submitted that the petitioner's educational qualification is more in as much as he is matric pass, whereas respondent No.4 is only 5th class pass and he could only speak Punjabi language, whereas the petitioner is fluent in three languages. Though he had a disadvantage in as much he owned only half quantity of land in comparison to the private respondent. Counsel

also took forth the hereditary claim as such and, therefore, on account of his youth also attacked the appointment on the ground that the private respondent is older in age and suffering from health problems.

Reliance has been placed upon judgments of the Division Bench of this Court in '**Kuldip Singh Vs. Jagjit Singh and others**' 2014 (2) RCR (Civil) 296, '**Swaran Singh Vs. Financial Commissioner, Revenue, Punjab and others**' 2014 (3) RCR (Civil) 259 and judgments of the Single Bench of this Court in '**Anand Kumar Vs. State of Haryana and others**' 2009 (4) RCR (Civil) 844 and in '**Rattan Singh Vs. Financial Commissioner, Appeals, Punjab and another**' 2016 (3) RCR (Civil) 653', apart from the judgment of the Apex Court passed in '**Mahavir Singh Vs. Khiali Ram and others**' 2009 (1) RCR (Civil) 757.

Underlying principle which is always has to be kept in mind is the choice of the Collector until it is perverse. The petitioner might have been younger in age, but the Collector has specifically noticed that he had been questioned about the basics of the procedure pertaining to the land revenue which was about *Fard*, *Jamabandi* and *Hadbast*, but he has shown inability in answer to the same. It was also on this account the older person has been preferred and found more competent. Merely because the petitioner is young and barely 24 at the time of appointment to the post of Lamberdar would not give him as such an absolute right to be appointed on the ground of age itself. Once the Collector has assessed the merit and found that the petitioner is inexperienced, it is not for this Court to step in and re-examine the merits.

Even the Apex Court in **Mahavir Singh (supra)** has held by setting aside the judgment of this Court that the High Court is basically concerned with the correctness of the decision making process and not the merit of the decision. The said judgment is, thus, of no help to the counsel for the petitioner. The relevant portion of the said judgment reads as under:-

“16. The High Court while exercising its jurisdiction under Article 226 of the Constitution of India is basically concerned with the correctness of the decision making process and not the merit of the decision. It has not been found by the High Court that Collector in expressing his opinion as regards comparative merit of appellant vis-a-vis respondent No. 1 committed an error in his decision making process. The principles of natural justice have been complied with. Procedure laid down in the Rules had also been complied with. It is also not correct to say, as has been contended by Mr. Mahajan that the Collector had not taken into consideration the services rendered by the respondent No. 1 to the State. He did acknowledge that the respondent No. 1 had rendered the services to the State as a member of the Armed Forces. The Collector also took into consideration that the views of the respectables of the village were in favour of appellant as also the fact that he had participated in the collection work of the village and helped the Government officials at the time of their visit. He furthermore took into consideration the fact that the Naib Tehsildar, Hansi had also recommended his name. Even the Circle Revenue Officer had recommended therefor.”

The Division Bench judgment in **Swaran Singh (supra)** relied upon is also on the same principle that the choice of the Collector needs to be respected unless it is perverse in law and the Division Bench also upheld the benefit of the hereditary claim as such on account of the fact that it was circumstances regarding the edge the candidate would

have and, therefore, the judgment would also of no assistance.

In **Kuldip Singh (supra)**, the same principle was followed regarding the respect which has to be given to the Collector's decision. In the case of **Rattan Singh (supra)** while considering the claim of the ex-serviceman, who was the petitioner the provisions were taken into consideration and it was noticed that the criteria for appointment *inter-se* are the educational qualification, age, experience, land and property, character, ability and freedom from indebtedness. In the present case also the experience has been kept into mind by the Collector which is one of the important criteria.

In **Anand Kumar (supra)** while dismissing the petition, it was noticed that while referring to Rule 15 of the Punjab Land Revenue (Lambardari) Rules, 1908 that the hereditary claim is not the sole criteria, but it is a relevant factor which is to be taken into consideration and, therefore, the said judgment is also of no help to the petitioner.

Keeping in view the above discussion, this Court is of the opinion that the findings recorded by the authorities below do not suffer from any infirmity, which would warrant interference in the extra-ordinary writ jurisdiction of this Court.

The writ petition is, accordingly, dismissed in limine.

SEPTEMBER 26, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No