

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

**CWP No.24482 of 2018
Date of Decision: 25.09.2018**

Sombir Singh ...Petitioner

Versus

State of Haryana and others ...Respondents

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

Present: Mr. Vikrant Rana, Advocate
for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

The present writ petition has been filed under Article 226/227 of the Constitution of India against the concurrent findings of the authorities below, whereby respondent No.4, Ram Kishan has been appointed as Backward Class Lambardar of village Fatehgarh (earlier district Bhiwani), now District Charkhi Dadri.

Counsel for the petitioner has vehemently argued that petitioner was younger in age and therefore, he should have been appointed as Lambardar in preference to the private respondent. The argument has been repelled by the Financial Commissioner, Haryana on the ground that the private respondent had not been given preference only on account of the fact that he was son of the deceased Lambardar and worked as Sarbrah Lambardar but other factors had also been kept in mind. Accordingly, it was held that at the time of consideration the petitioner was 32 years old, whereas the private respondent was 54 years old, merely would not be a ground as such a ground for appointment of Lambardar. The Financial Commissioner dealt with the said issue that it

was not a sole determining factor and other factors had been taken into account by the Courts below and therefore, distinguished the authorities relied upon by the petitioner while upholding the decision on 12.03.2018 (Annexure P-4).

A perusal of the order dated 26.08.2014 (Annexure P-2) of the District Collector, Bhiwani would go on to show that the petitioner is also 10th class pass as the private respondent. He was owner of 8 kanals 6 marlas of agricultural land which would only come to him on account of share of his father. On the other hand, the private respondent owned 10 kanals 17 marlas of land. The holding is relevant consideration in the estate and would be a important factor.

The fact that the respondent-Ram Kishan was the real son of deceased Lambardar and has also remained as Sarbrah Lambardar and his case had been recommended by the Tehsildar and was found suitable by the Collector as such to appoint him as Lambardar but not only on account of the said fact that he has given benefit, which is now sought to be argued.

The consideration, thus, by the Collector cannot be termed as perverse in any manner as the private respondent is also owner of more land in comparison to the petitioner who was banking on succession to claim the right of ownership. The judgment relied upon in **Manabhar Hussain Vs. Financial Commissioner, Department of Revenue, Haryana and others, 2013 (3) RCR (Civil) 266** whereby this Court has set aside the order passed by the Financial Commissioner is also on account of the fact that there were criminal proceedings in the case of the private respondent which was not taken into consideration and

resultantly, the matter was remanded to the Collector for fresh decision.

Thus, the abovesaid judgment is not applicable.

Similarly, in **Satpal Vs. State of Punjab and others 2013 (3) RCR (Civil) 251** the fact of illegal encroachment was weighed with the Financial Commissioner and age factor was one of the valid consideration to interfere in the orders and remand the matter to pass a fresh order.

Keeping in view the principle laid down by the Apex Court in **Mahavir Singh Vs. Khialia Ram & others, 2009 (1) RCR (Civil) 757,** this Court is of the opinion that the respect is to be given to the order passed by the Collector in the absence of any perversity.

Accordingly, there is no merit in the present writ petition and the same is dismissed in limine.

25.09.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No