

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

Sailesh Ranjan
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CWP-24509-2018

Date of decision: 26.10.2018

Joginder Singh

....Petitioner

Versus

Financial Commissioner Revenue & 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 dated 24.02.2015 (Annexure P-11) passed by the Financial Commissioner, whereby he has approved the order of the Commissioner, appointing respondent No.4-Surjit Singh as Lambardar of Village Heran, Tehsil Nakodar, who had set aside the order of the Collector dated 07.06.2011 (Annexure P-8).

Counsel for the petitioner has primarily based his argument on the ground that the Appellate Authority should not, as such, usurp the powers of the Collector and was in error in appointing Surjit Singh, respondent No.4. He has placed reliance upon the judgments of the Division Bench in Sarwan Kumar Vs. The Financial Commissioner Appeals-I, Punjab 2002 (2) PLR 448, Karam Singh Vs. Financial Commissioner & others 2006 (1) LAR 411 and Kulwinder Singh Vs. Financial Commissioner (Appeals-II), Punjab & others 2010 (67) RCR (Civil) 732, in this regard.

The case has a checkered history of disputing the appointment of Lambardar which is going on since the last decade, as the first appointment of Sukhdev Singh, respondent No.5 was made on 12.06.2008 (Annexure P-3). The ding-dong battle has been continuing and it is the time to put a quiet hiatus to the controversy, at this point of time, keeping in view the fact that even the present writ petition has been preferred after a period of more than 3 years from passing of the impugned order dated 24.02.2015 (Annexure P-11), by a person who can no way complain to have been shut out illegally.

It is settled principle that though there is no limitation, as such, provided to exercise the extraordinary jurisdiction under Articles 226/227 of the Constitution of India, but it is an important factor which is to be kept in mind, especially once the petitioner chooses not to approach the Court at the earliest instance and lets time flow, to the detriment of others. Even otherwise, it is to be noticed that the petitioner himself was 69 years of age and suffering from kidney ailment and at no stage any authority had even opined in his favour but he still chooses to rake up the controversy and to unsettle the settled matters. As noticed on 12.06.2008 (Annexure P-3), led to a remand order passed on 29.07.2008 (Annexure P-3) for the appointment of Sukhdev Singh on the ground that he did not belong to the concerned Patti from where the Lambardar had expired. The matter was taken to the Financial Commissioner, who on 27.11.2009 (Annexure P-6), who upheld the order of the Collector by setting aside the order of the Commissioner. The petitioner carried the matter to this

Court in CWP-5578-2010, wherein, on 29.03.2010 (Annexure P-7), the matter was remanded, on consensus, to the Financial Commissioner, who further remanded the matter on 24.08.2010 to the Collector.

Eventually, respondent No.5-Sukhdev Singh was again appointed on 07.06.2011 (Annexure P-8) by the Collector, by noticing that the lambardari was of Village Heran and not of Patti Sukha. It was noticed that petitioner was 69 years old and suffering from a kidney disease but Surjit Singh was denied the benefit on the ground that he was a Press Reporter by profession and could not give full devotion to the work of lambardari and thus, Sukhdev Singh was appointed on the ground that he had done ITI/Diploma and he had worked on the post of Lambardar. The interference at the hands of the Commissioner on 22.03.2013 (Annexure A-9) was on the ground that there were 3 Lambardars already from Lashkari Patti and therefore, he had accepted the appeal of Surjit Singh on the ground that it would send a wrong message that there was no other eligible person in the entire village for appointment as Lambardar. It was also noticed that Surjit Singh is the nephew of the present petitioner who was, as noticed, considerably old and therefore, the Commissioner did not allow his appeal, as such. The Financial Commissioner, in such circumstances, upheld the order of the Commissioner, discounting the petitioner, on the ground of his ailment and ill health and the fact that the other candidate was from Patti Lashkari.

Once the Collector had specifically held that the vacancy, as

such, was from Village Heran, it was not justified for him to appoint a person from the Patti, especially, when other candidates had already been appointed. The Commissioner was well justified in setting aside an order which was perverse on the face of it and therefore, had no other alternative but to fall back to Surjit Singh, who was the only available and eligible candidate as the petitioner's disadvantages have already been noticed above. In the peculiar facts and circumstances of the case, the order passed by the Commissioner dated 22.02.2013 (Annexure P-9) were liable to be upheld and had been rightly done so by the Financial Commissioner.

The judgments relied upon by the counsel for the petitioner, in such circumstances, would not be applicable as the order of the Collector, in the present circumstances, have been found to be perverse whereby on one account, the matter had been remanded solely for the purpose to find out that the vacancy was of which area. Once the Collector himself had come to a finding earlier that the vacancy was of Village Heran and therefore, the candidate should be taken from that village and should have been appointed, which the Collector again ignored. Thus, the Commissioner was well justified in setting aside the illegal exercise done by the Collector and rightly appointed Surjit Singh. Keeping in view the prolonged litigation, as such and the delay which has also occurred in filing the present writ petition, the petitioner, as such, has no *locus standi* as he himself, on account of his age, has gone out of the purview of consideration for such a post, as it is settled principle that

a younger person can always be of help to the residents of the village and the involvement will be more and the purpose of the appointment will be fulfilled.

Accordingly, in view of the above discussion, finding no merit in the present writ petition, same is hereby dismissed in limine.

26.10.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

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