

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

**CWP No.2997 of 2018
Decided on : 28.09.2018**

Amrik Singh

....Petitioner

Versus

Financial Commissioner, Punjab & others

...Respondents

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

Present: Mr.Akshit Aggarwal, Advocate, for
Mr.Sherry K.Singla, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the concurrent findings recorded by the authorities below, whereby private-respondent No.4, who is the namesake of the petitioner but son of Uttam Singh, has been preferred for the post of Lambardar of Village Awan Chaharmi, Tehsil Nakodar, District Jalandhar.

Counsel for the petitioner has vehemently submitted that the order of the District Collector, Jalandhar dated 18.02.2016 (Annexure P-1) does not discuss merits, as such and therefore, is non-speaking to that extent. It is submitted that the orders of the Commissioner dated 21.09.2016 (Annexure P-2) and the Financial Commissioner dated 18.08.2017 (Annexure P-4) suffer from the same infirmity and therefore, the petitioner has wrongly been denied appointment. It is further submitted that the petitioner was wrongly prejudiced due to the encroachment which was, thereafter, decided by the Civil Judge (Jr.Divn.) Nakodar, in favour of the petitioner, vide the judgment and decree passed on 21.02.2009.

A perusal of the paperbook would go on to show that while weighing the merits of both the candidates, who are retired persons, it was noticed by the Collector that the petitioner was of 65 years of age, was Secondary passed, owned 5 acres 6 kanals of land and had retired from the Land Preservation Department.

Similarly, the private-respondent No.4 was 62 years of age, 10th class pass, owned 3 acres 7 kanals of land and had retired as Subedar from the Indian Army. Both the candidates belong to the same community. However, the edge which the private-respondent possessed on the basis of which the Collector has preferred him, was that he had been elected as Member Panchayat unanimously and therefore, it showed that the people of the village had a preference towards him and he was nephew of the former Lambardar and was conversant with the Lambardari work. He also appeared to be more mature from the way of talking and the fact that he had also been recommended by the Naib Tehsildar, Tehsildar and the SDM Nakodar. It was, in such circumstances, the mantle of responsibility has fallen upon the private-respondent and the petitioner has been denied the same.

It is settled principle that choice of the Collector at the grassroots is not to be interfered with until it is perverse or arbitrary. Under Rule 15 of the Punjab Land Revenue Act, 1887 also, service to the Nation is an important aspect which has been duly kept in consideration. The private-respondent is a retired Subedar from the Indian Army and the fact that he had been unanimously elected as a Member of the

Panchayat are valid factors which weighed with the Collector, apart from the interaction which was done with the petitioner and the private-respondent by the Collector. As many as 8 applications had been received and various candidates had withdrawn in favour of the contesting parties and eventually, only 3 persons were in the zone of consideration. The candidate-Gulzar Masih who was less educated, did not own any land in his name and having house of 4 marlas, was also duly considered. In such circumstances, the well reasoned order passed by the Collector does not warrant any interference by this Court, keeping in view the settled principle that the procedure of appointment is to be kept in mind and this Court is not to consider the merits and demerits of the candidates, which even otherwise, weigh in favour of the private-respondent No.4.

Resultantly, in view of the above discussion, the present writ petition is dismissed in limine.

28.09.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

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