

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-7341-2018 (O&M)
Date of Decision: 19.11.2018

Mohinder Singh

--Petitioner

Versus

Financial Commissioner & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

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

Mr. T.P.S. Chawla, D.A.G., Punjab.

Mr. S.S. Sarwara, Advocate for the
caveator/respondent no.4.

TEJINDER SINGH DHINDSA.J (Oral)

Vide order dated 19.8.2015 passed by the District Collector, Patiala (Annexure P-2) Kulwinder Singh/respondent no.4 herein was appointed as Lambardar of Village Kheri Gandian, Tehsil Rajpura, District Patiala. Appeal having been preferred by the petitioner under Section 13 of the Punjab Land Revenue Act against appointment of respondent no.4 as Lambardar, the same was dismissed in terms of order dated 22.12.2015 by the Divisional Commissioner, Patiala Division, Patiala (Annexure P-3). Even a revision petition thereafter filed by the petitioner under Section 16 of the Punjab Land Revenue Act has met the same fate vide order dated 19.2.2018 passed by the Financial Commissioner, Punjab (Annexure P-5).

The instant writ petition has been filed assailing the afore-noticed orders at Annexures P-2, P-3 and P-5.

I have heard counsel for the petitioner at length as also Mr. S.S. Sarwara, Advocate appearing for caveator/respondent no.4.

Notice of motion.

On the asking of the Court, Mr. T.P.S. Chawla, learned D.A.G., Punjab accepts notice on behalf of respondents no.1 to 3 and waives service.

A complete copy of the writ paper book has been furnished to learned State counsel.

With the consent of counsel for the parties, the main writ petition is taken up for final disposal today itself.

In the considered view of this Court, a clear case for remand to respondent no.1 i.e. Financial Commissioner Revenue, Punjab is made out.

Such view has been taken for the following reasoning:-

Placed on record at Annexure P-1 along with the writ petition is a report of the A.C. IInd Grade, Rajpura dated 27.4.2015 and in which a recommendation had been made in favour of the petitioner Mohinder Singh for the post of Lambardar in the village. In such report it had been noticed that even though, Kulwinder Singh/respondent no.4 had faced trial pursuant to FIR No.99 dated 25.4.2004 under sections 279, 304-A I.P.C, Police Station, City Rajpura but he has since been acquitted. It was further noticed that respondent no.4 Kulwinder Singh possessed land measuring 17 bighas 17 biswas at Village Kheri Gandian and that he was 44 years of age and also 10th pass. On the other hand petitioner Mohinder Singh was noticed to be 8th class pass, having no criminal case registered against him and having served the Punjab Roadways Department for a period of 27 years and having superannuated being available in the village at all times. The recommendation further cited that Mohinder Singh petitioner had been issued appreciation letters twice over for his good work by the Punjab Roadways Department. Further the report/recommendation cited that Mohinder Singh was possessing 22 bighas 5 biswas of land and was 62 years of age.

The District Collector, Patiala while appointing respondent no.4 as a Lambardar vide order dated 19.8.2015 however noticed that the recommendation by A.C. IInd Grade-cum-S.D.M, Rajpura was in favour of Kulwinder Singh/respondent no.4, whereas factually it was in favour of petitioner herein Mohinder Singh. That apart, while appointing private respondent no.4 as Lambardar he was stated to be having 35 bighas of land as opposed to 22 bighas of land possessed by petitioner. Even such observation was not in tune with the recommendation made by A.C. IInd Grade, Rajpura on 27.4.2015 (Annexure P-1) wherein it had been noticed that Kulwinder Singh, respondent no.4 was having 17 bighas 17 biswas of land at the village in question. As has been noticed herein above order of appointment of private respondent no.4 by the Deputy Collector, Patiala has thereafter been affirmed by the Commissioner as also the Financial Commissioner Revenue.

It may be noticed that on a specific query having been put to counsel representing caveator/respondent no.4, it stands conceded that in so far as the village in question is concerned, respondent no.4 owns 17 bighas and 17 biswas of land.

Rule 15 of the Punjab Land Revenue Rules reads as under:-

“15. Matters to be considered in first appointments-In all first appointments of headman, regard shall be had among other matters to-

- (a) his hereditary claims;*
- (b) the property in the estate possessed by the candidate to secure the recovery of land revenue;*
- (c) services rendered to the State by himself or by his family;*
- (d) his personal influence, character, ability and freedom from indebtedness;*

(e) the strength and importance of the community from which selection of a headman is to be made;

(f) services rendered by himself or by his family in the national movements to secure freedom of India.”

A bare perusal of the afore reproduced provision makes it clear that in matters of appointment of Headman of the village/Lambardar certain parameters have to be kept in view. Amongst these would be the extent of property possessed by the candidate as also the services rendered to the State by the candidate himself or by his family.

Adverting back to the facts of the present case, the following aspects have been overlooked by respondent no.1 while dismissing the revision petition preferred by the petitioner under Section 16 of the Punjab Land Revenue Act:-

(i) The recommendation dated 27.4.2015 passed by the A.C. IInd Grade, Rajpura was in favour of the petitioner herein and not in favour of respondent no.4 as has been taken by the Collector while passing order dated 19.8.2015 appointing respondent no.4 as the Lambardar.

(ii) The order of the Collector dated 19.8.2015 in favour of Kulwinder Singh notices his land holding to be 35 bighas. Concededly the land holding of respondent no.4 is 17 bighas 17 biswas in the village in question as opposed to 22 bighas possessed and owned by the petitioner herein.

(iii) It was the consistent claim raised by the petitioner in the proceedings all through that he had served for a period in excess of 25 years with the State Govt. under the Roadways Department and had even earned appreciation letters for the service rendered. Such factual premise was even contained in the report dated 27.4.2015 of the A.C. IInd Grade, Rajpura

(Annexure P-1) wherein recommendation had been made in his favour for appointment as Lambardar.

In view of the above, the instant writ petition is partly allowed. Order dated 19.2.2018 (Annexure P-5) passed by respondent no.1, is set aside. Matter is remanded back to respondent no.1 for deciding the revision petition filed by the petitioner afresh in accordance with law and as per relevant provisions contained under the Punjab Land Revenue Rules after affording an opportunity of hearing to both the sides.

Parties to appear before the Financial Commissioner Revenue, Punjab on 3.12.2018.

Such exercise of reconsideration and passing of an order afresh be completed expeditiously and in any case within a period of four months from the date of receipt of a certified copy of this order.

It is, however, clarified that the observations made by this Court in this order are only with regard to remanding the matter back to the Financial Commissioner and would not be taken as an expression of opinion on the merits of the case.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

19.11.2018

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