

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

**L.P.A.No.1515 of 2016 (O&M) in
Civil Writ Petition No.677 of 2006
Date of Decision: July 16, 2018**

Kulwant Rai

...Appellant

Versus

Financial Commissioner, Appeals-II, Punjab, Chandigarh & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL
HON'BLE MR.JUSTICE AMIT RAWAL**

**Present: Mr. Harsh Bunger, Advocate,
for the appellant.**

**Mr. Jagmohan Ghuman, DAG, Punjab,
for respondent Nos.1 to 3.**

**Mr. Mrigank Sharma, Advocate,
for respondent No.4.**

AMIT RAWAL, J.

Appellant preferred the present Intra Court Appeal against the order dated 9.5.2016 (Annexure A-1) passed by the learned Single Judge, whereby the Writ Petition filed by respondent No.4 herein against the order dated 8.11.2005 (Annexure P-3) of the Financial Commissioner appointing appellant as Lambardar by setting-aside the orders of the Collector and the Commissioner (Annexures P-1 and P-2) appointing respondent No.4 as Lambardar, has been allowed.

The facts as enumerated in the order under challenge are not in dispute. However, the appellant has challenged the findings on the

following grounds:-

- 1) The order of the Financial Commissioner cannot be lightly set-aside;
- 2) The Collector had erroneously and perversely noticed the qualification of the appellant as matric, whereas he is actually B.A. pass;
- 3) Appellant was more meritorious than respondent No.4;
- 4) The authorities below had erroneously disagreed with the contention of the appellant and, therefore, the order of the Financial Commissioner appointing him as Lambardar by noticing the fact that he was having more academic qualification was justified;
- 5) Learned Single Judge erroneously noticed that the appellant was matric, whereas he is B.A. pass. In support of the aforementioned contention, reliance has been laid to the decision rendered in **Ishwar Singh Versus Satbir Singh & Ors., 2009 (9) SCC 392;**
- 6) The Commissioner passed the order in a most cryptic and perverse manner, warranting any reasoning, much less cogent reasons;

Mr. Mrigank Sharma, learned counsel representing respondent No.4 submitted that the Punjab Land Revenue Rules (for short, the Rules) do not envisage any educational qualification for the purpose of appointment of Lambardar. As per Rule 15 of the Rules, the only regard to be considered for the purpose of appointment is hereditary claims, property in the estate possessed by the candidate to secure the recovery of land

revenue, services rendered to the State etc. The Financial Commissioner did not have any power to appoint Headman/Lambardar in case the orders were not in accordance with law and the remedy was to remit the matter to the Collector to take a decision afresh. There is no illegality and perversity in the orders of the authorities below in appointing respondent No.4 as Lambardar and, thus, urged this Court for dismissal of the appeal.

Same is the argument of Mr. Jagmohan Ghuman, learned Deputy Advocate General, Punjab.

We have heard the learned counsel for the parties, appraised the paper book and are of the view that there is no force and merit in the submissions of Mr. Harsh Bunker, for, Rule 15 of the Rules, which lays down the matters to be considered for the purpose of appointment, is reproduced 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 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.”

The aforementioned Rule does not envisage any condition with regard to the educational qualification and, therefore, it is immaterial whether the appellant was a matric pass or otherwise. The Collector in

wisdom, vide Annexure P-1, found respondent No.4 to be better candidate than others for appointment of Lambardar (SC) as his name was also recommended by the Assistant Collector 1st Grade.

We cannot remain unmindful of the fact that the power vested with the Financial Commissioner is only to look into the illegality in the orders under challenge, but not empowered, to order appointment of the appellant, therefore, the order of the learned Single Bench setting-aside the order of the Financial Commissioner does not call for any interference or suffers from any error.

There is no dispute to the ratio decidendi culled out in the judgment cited supra. However, the aforementioned submissions of Mr.Bunger do not bring the case within the provisions of judicial review to interfere with the order of the learned Single Judge to arrive at a different opinion.

For the reasons aforementioned, no ground for interference in the order under challenge is made out. Letters Patent Appeal is dismissed. Consequently, the application for condonation of delay in filing the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 16, 2018
ramesh

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No