

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

**LPA No.2330 of 2017(O&M) in
CWP No.12257 of 2015
Date of Decision:17.04.2018**

Bachhiter Singh

..... Appellant

versus

State of Haryana and others

..... Respondent

**CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B.S.WALIA**

Present: Ms. Aashna Gill, Advocate, for the appellant.

B.S.WALIA, J.

1. Intra-court appeal has been filed by appellant - (respondent No.4 in the writ petition) against the order of the Writ Court dated 18.9.2017 allowing the writ petition filed by respondent No.4-petitioner and setting aside order dated 31.3.2015 (Annexure P-3) passed by the Financial Commissioner, Revenue Department, Haryana.

2. Brief facts of the case leading to the filing of the intra-court appeal are that the post of Lambardar of village Guhla, Tehsil Guhla, District Kaithal fell vacant after the death of previous Lambardar Mangal Singh. The last date for receiving applications to fill up the post was 12.01.2011. Halqa Patwari produced Naksha Lambardari on 6.6.2011. After completion of formalities, the Sub Tehsildar recommended the name of respondent No.4-petitioner to the SDO(C), who instead recommended the name of appellant - (respondent No.4 in the writ petition) to the Collector. However, the Collector appointed respondent No.4-petitioner as Lambardar on 21.9.2012 whereupon appellant as well as respondent

Lambardar by way of two separate appeals before the Divisional Commissioner who vide his order dated 10.1.2014 dismissed the same. Thereupon the appellant as well as respondent No.5 challenged the orders of the Collector and the Divisional Commissioner by way of two separate revision petitions which were allowed on 31.3.2015 and the matter was remanded by the Financial Commissioner to the Collector for decision afresh on the ground that respondent No.4-petitioner was not having any land in his name when he had filed the application.

3. Plea before the Writ Court was that the order of the Financial Commissioner was patently illegal in view of the decision of Hon'ble the Supreme Court in the case of **Inderaj versus Financial Commissioner and others, AIR 1994 SC 753** wherein it has been laid down that qualification of a candidate possessing land was required to be seen at the time of appointment and not at the time of filing the application. In the circumstances, it was contended that although respondent No.4-petitioner was not having land till the last date of filing application but when the Halqa Patwari produced naksha lambardari, at that time, respondent No.4-petitioner was having land in his name and it was in the aforementioned background that the matter was considered by the Revenue Authorities who recommended respondent No.4-petitioner's name to the Collector for appointment as Lambardar.

4. On the other hand, plea of the respondents before the Writ Court was that the Financial Commissioner had rightly allowed the revision petitions after considering the decision of Hon'ble the Supreme Court rendered in **Inderaj's case** (supra) as also various decisions of this Court in which it had been held that land holding by the candidate at the time of filing the application was an essential qualification.

5. The Writ Court while considering Rule 15 of the Punjab Land Revenue Rules, 1908 (hereinafter referred to as the 'Rules') in which Rule 15 (b) deals with extent of property in the estate possessed by the candidate, held that except for Rule 15(h) which stipulates that age of a candidate should not be less than 21 years of age at the time of inviting applications for the post of Lambardar, all other conditions stipulated in Rule 15 ibid were preferable/desirable and not essential qualification.

6. In the light of the aforementioned position, the Writ Court held that the Financial Commissioner had wrongly interpreted the decision of Hon'ble the Supreme Court in **Inderaj Singh's** case (supra) and the said decision was squarely applicable in the facts of the instant case. Accordingly, the Writ Court allowed the writ petition and set aside the order passed by the Financial Commissioner.

7. Learned counsel for the appellant reiterated the submissions made before the Writ Court.

8. We have considered the submissions of learned counsel for the appellant and are of the considered view that no ground is made out to interfere with the order passed by the Writ Court as Rule 15 (b) of the Rules which provides for consideration of extent of property in the estate possessed by the candidate is not an essential requirement. The only essential requirement under Rule 15 of the Rules in the case of appointment to the post of Headman is contained in Rule 15 (h) of the Rules which provides that applicant for the post of Lambardar should not be less than 21 years of age at the time of inviting applications.

9. In the light of the position as noted above, the decision of Hon'ble the Supreme Court rendered in **Inderaj Singh's** case (supra) is squarely applicable and the order of the Financial Commissioner holding otherwise is not the correct position in law. The Writ Court correctly set aside order dated 31.3.2015

(Annexure P-3) passed by the Financial Commissioner as requirement of a candidate of possessing land is to be seen at the time of appointment and not at the time of filing the application.

10. Accordingly, finding no merit in the appeal, the same is dismissed in limine.

(RAJESH BINDAL)
JUDGE

(B.S.WALIA)
JUDGE

April 17, 2018

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