

**LPA No.1427 of 2018 (O&M)**

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

**LPA No.1427 of 2018 (O&M)  
Date of decision: 18.9.2018**

**Bhupender**

**... Appellant**

**Versus**

**Financial Commissioner, Haryana, and others**

**... Respondents**

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,  
CHIEF JUSTICE  
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Surinder Dagar, Advocate  
for the appellant.

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**ARUN PALLI, J. (ORAL)**

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 26.7.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the petitioner-appellant, has since been dismissed.

The facts that are required to be noticed are limited.

A post of Lambardar in village Tauru, Tehsil Tauru, District Mewat-Nuh fell vacant owing to the death of its incumbent: Sh. Rammehar. Assistant Collector 2<sup>nd</sup> Grade, Tauru, initiated the process to fill up the said post. Although numerous candidates submitted their applications for

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appointment, but eventually, only the claims of the appellant-Bhupender and respondent No.4-Deepak Sahrawat, survived for consideration. The District Collector, Mewat, vide his order dated 3.12.2013, held respondent No.4 to be ineligible for consideration, for at the time of submission of his application, he did not own any land. Although subsequently he became owner of a land measuring 26 kanals, pursuant to a release deed dated 4.10.2013, but that was hardly of any consequence. For the eligibility of a candidate was required to be determined on the date of submission of his application form. Resultantly, appellant-Bhupender son of Sh. Raghubir Singh was appointed as Lambardar of the village. The said order was affirmed by the Commissioner, Gurgaon Division, Gurgaon, vide order dated 20.2.2014, and the appeal preferred by respondent No.4, assailing the same was dismissed. However, the Financial Commissioner, vide order dated 8.8.2016, allowed the revision petition filed by respondent No.4 against those orders. It was held that the land that was transferred, pursuant to the release deed dated 4.10.2013, in favour of respondent No.4 by his father and grandmother was co-parcenary in nature, thus, respondent No.4 had a right therein by birth. Hence the Collector ought to have taken this factor into consideration. Further, in reference to the decisions of the Supreme Court in **Inderaj Vs. Financial Commissioner and others, AIR 1994 SC 753**, and the judgment of the Division Bench of this Court in **Manjit Singh Vs. Financial Commissioner (Appeal-I), Punjab, Chandigarh and others, 2012 (67) RCR (civil) 725**, it was observed that crucial date for evaluating the relative merit of the candidates for appointment to the office of Lambardar was not the date when the applications were submitted by the candidates, but when the competent authority made a final choice for

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appointment. Further, respondent No.4 being more qualified than appellant and being a grandson of the deceased Lambardar, was well versed with the functions and duties of the office. Thus, respondent No.4 was more suitable in comparison to the appellant. Being aggrieved by the order passed by the Financial Commissioner, the appellant preferred a writ petition, as indicated above, which has since been dismissed.

We have heard learned counsel for the appellant and perused the records.

Ex facie, the precise reason assigned by the District Collector, Mewat-Nuh, to reject the candidature of respondent No.4 was that he did not own or possess any land on the date of submission of his application for appointment as Lambardar. Concededly, pursuant to a release deed dated 4.10.2013, a land measuring 26 kanals situated in village Gogjaka, Tehsil Tauru, was transferred in the name of respondent No.4 by his father and grandmother. And that was much before the District Collector, Mewat-Nuh, compared the relative merit of the candidates and adjudged their suitability for appointment as Lambardar. The learned Single Judge, in reference to the decision of a Division Bench of this Court in **Manjit Singh's case (supra)**, concluded that crucial date for determining the relative merit of the candidates is the date of appointment and not when the candidates submit their applications. The proposition that is also supported by the decision of the Supreme Court in **Inderaj's case (supra)**. Thus, the orders passed by the Collector as also the Commissioner suffered from a patent illegality, in holding respondent No.4 to be ineligible. There cannot be any quarrel with the proposition being propounded by learned counsel for the appellant that the District Collector, being the competent authority for making

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appointments to the office of a Lambardar, is best equipped to adjudge the suitability and relative merit of the candidates and unless the discretion exercised in this regard is shown to be perverse or suffers from any jurisdictional error, it cannot be interfered with. However, the position in the matter at hands, as demonstrated above, is entirely different, as the candidature of respondent No.4 was rejected by the District Collector, Mewat-Nuh, for, he did not own any land on the date of submission of his application and was thus ineligible. Even the argument that Financial Commissioner, despite having found respondent No.4 to be eligible for consideration, ought to have remanded the matter to the competent authority for re-decision also lacks conviction and cannot be countenanced. Needless to assert that in the event the matter required proceedings to be initiated *de-novo* or determination upon certain issues qua which no material existed on record, the Financial Commissioner, in his discretion, could always remit the matter. But, that was not the case in the matter at hands. The credentials of both the candidates being available on record, it indeed was futile to still remand the matter. Thus, in the circumstances, the Financial Commissioner duly compared and weighed the relative merits of the candidates and reached a conclusion that respondent No.4 was far more educated, having studied up to M.A., than the appellant who had just qualified 10+2. Further, as respondent No.4 happened to be the grandson of the deceased Lambardar, on whose death a vacancy of Lambardar had occurred, and being well versed with the functions and duties of the office of Lambardar, he was more suitable in comparison to the appellant. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at by the learned Single Judge as also the Financial

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Commissioner were either contrary to the record or suffered from any material illegality.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment dated 26.7.2018, rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

**(KRISHNA MURARI)**  
**CHIEF JUSTICE**

**(ARUN PALLI)**  
**JUDGE**

**September 18, 2018**

AK Sharma

Whether speaking / reasoned: YES

Whether Reportable: NO