

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 337 of 2019
Date of decision: 09.05.2019

Hardial Singh

... Appellant

Versus

Financial Commissioner, Punjab and others

... Respondents

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

Present: Mr. Mandeep K. Sajan, Advocate, for the appellant.

ARUN PALLI, J.

This is an *intra Court* appeal under Clause-X of the Letters Patent, against an order and judgment dated 10.09.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant, against the order dated 12.08.2015, passed by the District Collector, appointing respondent Sukhdev Singh as Nambardar as also the orders dated 5.5.2016 and 20.12.2016, whereby the appeal as also the revision filed by the appellant against the said orders were rejected, has since been dismissed.

A vacancy of Nambardar in village Dulchi occurred owing to the death of Nambardar Ujagar Singh on 07.03.2013. Pursuant to the process initiated by the authorities to fill-up the said post seven (7) applications including two submitted by the appellant and respondent Sukhdev Singh were received. However, eventually only two candidates:

the appellant and the private respondent remained in fray. And, upon a consideration of the matter, the District Collector, Ferozepur, concluded that respondent Sukhdev Singh had qualified higher secondary examination and studied up to B.A Part-I. Further, he owned a substantial land holding measuring 23 acres. Whereas, appellant Hardial Singh was just matriculate and owned merely one acre of land. And since respondent Sukhdev Singh had even served as Sarpanch of the village Dulchi for five years and was thus more suitable for appointment. As regards the objections raised by the appellant that as an inquiry was pending against Sukhdev Singh his claim could not be accepted, was also rejected, for that mere pendency of an inquiry was hardly a proof of respondent-Sukhdev Singh being guilty of any charge or an offence. Accordingly, vide order dated 12.08.2015, he was appointed as permanent Nambardar of the village.

Being aggrieved by the said order the appellant filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887, which was dismissed vide order dated 5.5.2016, by the Commissioner. Not just that even the revision petition filed by the appellant against those orders was dismissed by the Financial Commissioner on 20.12.2016. That is how, the appellant approached this Court vide a writ petition, as indicated above, which too has been dismissed vide impugned order and judgment. Thus this appeal.

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

Ex facie, upon receipt of the applications and consideration of

the candidature of the candidates the name of respondent Sukhdev Singh was recommended by Naib Tehsildar and Tehsildar to SDM, Ferozepur. And, vide report dated 15.04.2015, even the SDM expressed his concurrence therewith. Indisputably, respondent-Sukhdev Singh owned a substantial land holding measuring 23 acres. On the contrary the appellant only owned a land measuring one acre in the village. Further, he was merely matriculate, whereas Sukhdev Singh had passed higher secondary and studied up to BA Part-I. The record shows that Sukhdev Singh had also served as Sarpanch, Gram Panchayat Dulchike w.e.f. 2008 to 2013. That being so, he indeed was better equipped in terms of experience in public life than the appellant. Thus, the plea that appellant was younger in age and was merely 33 years old in comparison to respondent Sukhdev Singh who aged 55 years at the time of consideration of their claim by the Collector, pales into insignificance. Even otherwise in a given situation, maturity and experience in public life values more than a candidate who is younger in age. Further, Sukhdev Singh enjoyed a good reputation and was a man of means. He could even read and write English and Punjabi languages. The grievance of the appellant that while working as Sarpanch the respondent had embezzled the panchayat fund and an inquiry in this regard was pending before the Additional Director Panchayati Raj, Punjab was hardly of any consequence. For, mere accusation or pendency of the proceedings could not be construed as a concrete proof of respondent Sukhdev Singh being guilty of the alleged charge. And, as observed by the Commissioner as also the Financial Commissioner that if subsequently the respondent Sukhdev

Singh is found guilty of embezzling the panchayat fund the necessary action could always be taken against him under the rules. Whereas, on the contrary, if his candidature is ignored at this stage just because some inquiry was pending, in the event he is found innocent, it would rather be an irreversible situation to deal with. Further, the position of law is well established that the discretion exercised by the Collector while making appointment to the office of Nambardar, preceded by comparative analysis of the candidature of the candidates and their suitability, should not be interfered with unless proved to be perverse or contrary to the statutory provisions.

In the wake of the above, we too are dissuaded to interfere with the orders passed by the respondents-authorities as also the impugned order and judgment rendered by the learned Single Judge. Thus, the appeal being devoid of merit and is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

09.05.2019

Manoj Bhutani

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