

LPA No. 276 of 2019 (O&M)

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

**LPA No. 276 of 2019 (O&M)
Date of decision: 06.02.2019**

Sunder Singh

... Appellant

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Kul Bhushan Sharma, Advocate
for the appellant.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 14.11.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the respondent-Ran Singh was accepted and the order passed by the Financial Commissioner, dated 30.12.2013, whereby he affirmed the order of the Collector and appointed appellant as Lambardar, was set aside.

The facts that are required to be noticed are limited.

Owing to the death of Lambardar Jagdish Singh, office of Lambardar in village Dharan, Tehsil Bawal, District Rewari had fallen vacant. Applications were invited by the authorities from the candidates who were willing to compete for selection to the said post. There were five candidates in the fray, namely appellant-Sunder Singh, respondent No.4-Ran Singh, Amar Pal, Lilu Ram and Vikram Singh. Although, the District Revenue Officer recommended the name of Amar Pal for the post of Lambardar, but the Collector, vide order dated 19.5.2009, appointed

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appellant-Sunder Singh, for he happened to be the son of late Jagdish Singh (Lambardar) and was only 35 years of age with good financial background. The claim of respondent-Ran Singh was rejected, as he was alleged to be involved in a criminal case, registered on 29.4.2009, and had obtained loan of Rs. 2,95,000/-. As against Amar Pal and his son, a criminal case under Sections 323/325 IPC was pending and he also failed to substantiate if he owned any agricultural land as alleged to have been bequeathed in his favour by way of gift. Further, he had even encroached upon a passage and sown mustard crop therein. Similarly, Vikram Singh was found to be unsuitable for the post, as he belonged to another patti. The order passed by the Collector was assailed by Amar Pal and respondent-Ran Singh by way of an appeal under Section 13 of the Punjab Land Revenue Act, 1887, to the Commissioner, Gurgaon Division, Gurgaon. Who, vide order dated 9.12.2010, set aside the order dated 19.5.2009 and remitted the matter to the Collector, Rewari, to re-evaluate the merit of the respective candidates in terms of Rule 15 of the Punjab Land Revenue (Haryana Amendment) Rules, 2008, (for short “2008 Rules”). However, the said order was questioned by appellant-Sunder Singh by way of a revision to the Financial Commissioner, who, upon consideration of the matter, concluded that even though appellant-Sunder Singh had studied up to 7th class, but was not disqualified or ineligible to compete, as in terms of Rule 15 of 2008 Rules, a candidate is required to be literate and **preferably “Middle Pass”**. Further, when the recommendations were made on 24.7.2007, the 2008 Rules did not envisage any such preferential qualification, i.e. “Middle Pass”, for it was brought in subsequently by way of amendment in the Rules, vide notification dated 23.7.2008 (Annexure P-2). Thus, the Collector, Rewari, had not committed

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any illegality in appointing the appellant as Lambardar. Accordingly, order dated 9.12.2010, passed by the Commissioner, was set aside. Respondent-Ran Singh assailed the order passed by the Financial Commissioner, vide a writ petition referred to above, which has since been allowed and the matter has since been remitted to the Collector for re-decision, in terms of the order of the Commissioner (Annexure P-3).

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

Ex facie, what weighed with the learned Single Judge and necessitated to remit the matter to the Collector for re-decision was/is that Collector as also the Financial Commissioner had ignored that Ran Singh was a graduate and owned 8 acres of land in the village. He also possessed 25 bighas of land in Rajasthan and was financially sound. Further, he had rendered effective assistance in implementation of Family Planning Schemes and motivated the masses to make deposits in Small Saving Accounts. He had made donations to several institutions and was a regular blood donor, besides a life member of Red Cross Society, and his son was serving in the Air Force. Undoubtedly, the initial recommendations were made on 24.07.2007, when the rules had not yet been amended, but it was also true that by the time candidates were evaluated for appointment, amended Rules had already come into being. Thus, the Collector failed to consider that respondent-Ran Singh being a graduate possessed the preferential qualification. As regards registration of a criminal case, it was clarified that only a DDR was lodged on 29.4.2009, against him and his son, which was a counter reaction to the DDR lodged by Ran Singh, prior in point of time on 28.4.2009. Even otherwise, as the matter was never taken to any logical end,

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the said report was destroyed. Further, obtaining loan could hardly be a factor to draw any adverse inference against his candidature for appointment as Lambardar. As regards appellant, no preference as regards appointment as Lambardar could be extended solely on the basis of hereditary claim in the wake of the amendment in the Rules. It was in these circumstances, the Commissioner, in his wisdom, reached a conclusion that the matter required re-consideration, and therefore, remitted the same to the Collector with a direction to re-evaluate the merits and demerits of the candidates, in terms of 2008 Rules, with an obvious purpose that in context of the nature of functions and duties one is required to discharge as Lambardar, be appointed. Even in our considered view, the course adhered to by the Commissioner was just and expedient. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusion rendered by the learned Single Judge was either contrary to the record or suffered from any material illegality.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment as also the discretion exercised by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

February 06, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO