

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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CWP-5496-2019

Date of decision: 28.02.2019

BHAG SINGH

...PETITIONER

VS.

STATE OF PUNJAB AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Amandeep Soni, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the order dated 22.10.2018 (Annexure P-3) passed by the Financial Commissioner, Punjab, whereby the revision petition preferred by the petitioner stands dismissed challenging the order dated 08.08.2017 (Annexure P-2) passed by the Commissioner, Jalandhar Division, Jalandhar, whereby the appointment of the petitioner as Lambardar of Village Nadala, Tehsil Bholath, District Kapurthala, vide order dated 05.05.2016 (Annexure P-1), was set aside on the ground that proclamation, which has been carried out in the village, is a false and fabricated document and as a matter of fact, no such proclamation was carried out. This, the counsel for the petitioner states, is contrary to the records and, therefore, the impugned order cannot sustain and deserves to be set aside.

It is the contention of the learned counsel for the petitioner that

after the issuance of the proclamation on 28.03.2016 in the village by the chowkidar, which has been duly sanctioned by the Lambardar as well as the Nagar Councillor, the petitioner applied for the said post of Lambardar along with seven others. The last date for submission of applications was 08.04.2016. Most of the candidates withdrew the candidature during the process of consideration and ultimately, before the District Collector, Kapurthala, the remaining candidates also withdrew the candidature leaving the petitioner only as a candidate before the said authority, who is the appointing authority of the Lambardar. Taking into consideration the qualification of the petitioner and requirement of the rules, petitioner was appointed as Lambardar of the Village. It is thereafter that an appeal was preferred by one Soma Rani widow of Late Sh. Avtar Singh, who was the previous Lambardar of Village Nadala, asserting that the proclamation has not been issued in accordance with law. The said appeal itself was not maintainable as she was not a candidate for appointment to the post of Lambardar and secondly, the petitioner being the only candidate and eligible as per the requirement of the rules, has been rightly appointed by the competent authority. She contends that the due process, as laid down under the Rules and the procedure prescribed therein, stood duly complied with and, therefore, the order dated 08.08.2017 (Annexure P-2), as passed by the Commissioner, Jalandhar Division, Jalandhar, cannot sustain. Had the proclamation not been issued, there was no question of eight persons having applied for the post of Lambardar in response thereto. The proclamation has not only been signed by the chowkidar, who carried out the same, but the Lambardar as well as the Nagar Councilor had endorsed the factum of proclamation having been issued. She, thus, contends that this

order, which has been upheld by the Financial Commissioner (Appeals) vide order dated 22.10.2018, cannot sustain as that would be contrary to the records.

I have considered the submissions made by the learned counsel for the petitioner and with her assistance, have gone through the impugned orders.

What is glaring, on the basis of the admitted facts, is the haste, with which the whole process and appointment of the petitioner as Lambardar of the village has been carried out. The date of proclamation, as alleged, is 28.03.2016. The last date of submission of the applications being 08.04.2016, consideration by the Sub-Tehsildar followed by further consideration by the SDM leading to the matter being put up before the District Collector for approval stands completed within a period of one month. It is apparent from the facts that the petitioner stood appointed as a Lambardar on 05.05.2016. That apart, the authorities below have gone through the records of the case and have given a specific finding that the report of the proclamation is not genuine and it is false and fabricated one. This Court would not intend to interfere with the findings recorded by the authorities after going through the records.

Another aspect, which pointedly refers to and gives credence to the findings recorded by the authorities below, is the fact that the appellant before the Commissioner Soma Rani was the widow of a deceased Lambardar. There is no reason as to why the wife of the deceased Lambardar would not have applied for the post of Lambardar had there being a proclamation issued in the village. The other observations, as made by the authorities below in the impugned order, also cannot be faulted with.

The impugned orders being in accordance with the statutory Rules as well as based upon proper appreciation of the facts and the records do not call for any interference by this Court in exercise of its extra-ordinary writ jurisdiction.

The writ petition being devoid of merit stands dismissed.

February 28, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No