

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

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Civil Writ Petition No.6892 of 2019 (O&M)
Date of Decision: September 4th, 2019

Dalbara Singh

...Petitioner

Versus

Financial Commissioner (Appeals) Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Munish Gupta, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 26.07.2018 (Annexure P-9) passed by the Financial Commissioner (Appeals), Punjab, whereby the order dated 23.12.2014 (Annexure P-7) passed by the Commissioner, Patiala Division, Patiala, has been set aside vide which appeal preferred by the petitioner was allowed setting aside the order dated 30.01.2014 (Annexure-3) passed by the Collector, Ludhiana.

2. It is the contention of learned counsel for the petitioner that the District Collector, Ludhiana, vide order dated 30.01.2014 (Annexure P-3) had proceeded to appoint respondent No.4-Sikander Singh son of Nath Singh as the Lambardar of Village Hamayunpur, Tehsil Ludhiana (W), District Ludhiana. He contends that as per the order passed by the Deputy Commissioner dated 29.10.1993 (Annexure P-5), there was illegal encroachment on *hada rori* of Village Hamayunpur by Nath Singh, father of respondent No.4. He on this basis contends that respondent No.4 being in illegal possession of *hada rori* could not have been appointed as the Lambardar of the village. That apart, he contends that FIR No.147 dated 21.08.2016 (Annexure P-10) under Sections 419, 420, 465, 467, 468,

performing his duties as Lambardar of the village after his appointment, he had identified some person, who was not even the owner of the land. Counsel further contends that petitioner is more qualified and is younger in age as compared to respondent No.4 and further the lower revenue authorities have all recommended his candidature for appointment to the post of Lambardar. He, thus, contends that on this score also, order dated 26.07.2018 (Annexure P-9) passed by the Financial Commissioner (Appeals), Punjab, cannot sustain and deserves to be set aside.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the records of the case as well as the impugned order.

4. The first contention which has been raised by learned counsel for the petitioner is that respondent No.4 is in illegal possession of the Gram Panchayat land i.e. the *hada rori* of Village Hamayunpur. This argument is based upon the order dated 29.10.1993 (Annexure P-5) passed by the Deputy Commissioner, Ludhiana. Perusal of the said order would indicate that the encroachment, if any, was at the hands of father of respondent No.4 and in any case, this was in the year 1993, whereas the appointment of respondent No.4 is on 30.01.2014, which is a much subsequent date. The revenue record which has been placed on record by learned counsel for the petitioner as Annexure P-13 would not indicate that respondent No.4 was in possession of *hada rori* of the village nor was his father shown in illegal possession of the same. The plea, therefore, as raised by the counsel for the petitioner cannot be accepted.

5. As regards the FIR dated 21.08.2016 (Annexure P-10) which has been registered against respondent No.4, which is of a subsequent date

and, therefore, would not be a relevant factor as far as consideration for appointment to the post of Lambardar is concerned as the relevant date for the said purpose would be his date of appointment, which is 30.01.2014.

6. It would, however, not be out of way to mention that irrespective of the fact that there was an FIR registered against respondent N.4, the same stands quashed by this Court vide order dated 21.10.2017 although on the basis of a compromise, which has been entered into between the parties. The said aspect, therefore, is of no avail to the petitioner.

7. The third and last contention as raised by learned counsel for the petitioner is that the petitioner is educationally more qualified, younger in age and his name was recommended by the lower revenue authorities, suffice it to say that the choice of the Collector has to be given primacy as he is the officer at the field and has been given the responsibility to take a decision. Since no perversity or illegality has been found in the choice which has been exercised by the District Collector, Ludhiana, vide order dated 30.01.2014 (Annexure P-3), the same cannot be interfered with. This is the settled position in law and, therefore, cannot be unsettled at this stage.

8. Finding no merit in the present writ petition, the same stands dismissed.

September 4th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No