

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

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CIVIL WRIT PETITION NO.6843 OF 2019
DATE OF DECISION: MARCH 15, 2019

Manjinder Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Onkar Singh, Advocate,
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab,
for the State.

Mr. G. S. Nagra, Advocate,
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court by way of present writ petition, challenging the order dated 22.10.2018 (Annexure P-8) passed by the Financial Commissioner, Punjab, whereby the revision petition preferred by respondent No.4-Gursharan Singh against the appointment of the petitioner as a Lambardar of Village Mehmuwal, Tehsil and District Hoshiarpur by the Collector vide order dated 30.01.2014 (Annexure P-1), which order of appointment, on challenge, had been upheld by the Commissioner, Jalandhar Division, Jalandhar, vide order dated 07.10.2016 (Annexure P-2), has been allowed by setting-aside the orders passed by the said authorities and remanded the case to the District Collector to decide the

matter afresh keeping in view the fact that the petitioner was facing a trial in a criminal complaint under Sections 500 and 506 IPC read with Section 34 IPC and that as per the report of the Tehsildar, Hoshiarpur, dated 05.05.2017, the petitioner is in illegal possession of the Gram Panchayat land.

It is the contention of learned counsel for the petitioner that it is a settled proposition of law that the choice of the Collector, who is the officer at the ground level and is aware of the facts and circumstances of the area should not be interfered with lightly unless there is a patent illegality and irregularity in the appointment of Lambardar. He contends that after considering the claims of the respective candidates, who had applied for appointment as Lambardar of Village Mehmuwal, Tehsil and District Hoshiarpur, the petitioner was appointed as a Lambardar of the said Village by the Collector, District Hoshiarpur, vide order dated 30.01.2014 (Annexure P-1). This order of appointment was challenged by respondent No.4, Gursharan Singh, before the Commissioner, Jalandhar Division, Jalandhar, in an appeal, who vide order dated 07.10.2016 (Annexure P-2) upheld the appointment of the petitioner as Lambardar by dismissing the appeal of respondent No.4. These two orders were challenged by respondent No.4 before the Financial Commissioner, Punjab, by filing a revision petition, which has been allowed vide order dated 22.10.2018 (Annexure P-8), by setting-aside the appointment of the petitioner as Lambardar of the village in the light of the fact that he is facing a criminal trial on the basis of a complaint preferred under Sections 500 and 506 read with Section 34 IPC and further on the basis of report of Tehsildar dated 05.05.2017, according to which the petitioner is in illegal occupation of panchayat land.

He contends that it is a settled proposition of law that the qualification of the candidate(s) for appointment to the post of Lambardar has to be either seen on the date, if any, fixed in the proclamation or last date of receipt of application(s) or/and at the stage of appointment of Lambardar by the Collector. He asserts that the date of appointment of the petitioner as Lambardar of the village is dated 30.01.2014 whereas the criminal complaint, which has been filed against the petitioner is dated 01.09.2015 and similarly the report of Tehsildar, Hoshiarpur, is dated 05.05.2017. He contends that both these documents (i) criminal complaint and (ii) report of Tehsildar, Hoshiarpur are subsequent to the date of appointment of the petitioner as Lambardar and, therefore, the same cannot be taken into consideration for considering the eligibility and suitability of the petitioner for appointment to the post of Lambardar. He, thus, contends that the impugned order passed by the Financial Commissioner, Punjab, dated 22.10.2018 (Annexure P-8) cannot sustain and deserves to be set-aside.

On the other hand, learned counsel for respondent No.4 contends that the conduct and character of the Lambardar is not only required to be taken into consideration on the date of appointment but it has to be taken into consideration subsequently also as he has to maintain good character and conduct after appointment as well as people look upon him as he is holding a very responsible post. Any subsequent action also can be looked into by the competent authority as per the statutory provisions, especially when remedy of appeal and revision have been provided and the same would be taken to be in continuation of the proceedings of the appointment on the post of Lambardar. He further contends that once it has

been found that he has been an accused in a criminal case, the stigma as such continues and he is not supposed to hold such a responsible post of Lambardar. He, thus, supports the order passed by the Financial Commissioner dated 22.10.2018 (Annexure P-8)

I have considered the submissions made by learned counsel for the petitioner and with his assistance have gone through the records of the case.

It is a settled proposition of law that the date of appointment of a candidate on the post of Lambardar is the relevant date to determine not only the eligibility of the candidate but the suitability as well. Whatever material is available prior to or on the said date, need to be looked into by the authorities as provided for under the provisions of the statute. Admittedly, the criminal complaint against the petitioner, wherein he has been summoned under Sections 500 and 506 read with Section 34 IPC has been filed on 01.09.2015, which is subsequent to the date of his appointment i.e. 30.01.2014 and similarly the report of Tehsildar, Hoshiarpur is dated 05.05.2017, showing the petitioner to be in illegal possession of Gram Panchayat land. If that be so, the said documents cannot be looked into by the appellate authority as well as the revisional authority for determining the suitability of a candidate for appointment to the post of Lambardar. This could be a good ground, if permissible in law and as per the rules governing the appointment on the post of Lambardar, for taking action against such appointed Lambardar but certainly, the same cannot be taken into consideration for assessing the suitability for appointment of a candidate on the post of Lambardar.

Therefore, the order passed by the Financial Commissioner,

Punjab, dated 22.10.2018 (Annexure P-8) being against the settled principles of law, cannot sustain and is hereby set-aside.

The writ petition stands allowed accordingly.

March 15, 2019 **(AUGUSTINE GEORGE MASIH)**
khurmi **JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No