

LPA No. 930 of 2019 (O&M)

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

**LPA No. 930 of 2019 (O&M)
Date of decision: 16.05.2019**

Baghel Singh

... Appellant

Versus

The Financial Commissioner Revenue, Punjab, and others

... Respondents

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

Present: Mr. Sherry K. Singla, 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 8.4.2019, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant against an order dated 29.10.2018, passed by the Financial Commissioner (Appeals), whereby appointment of the appellant as Lambardar was set aside and the matter was remitted to the District Collector, has since been dismissed.

The facts that are required to be noticed are limited.

A vacancy of Lambardar in village Sheron, Tehsil Sunam Udham Singh Wala, District Sangrur, occurred owing to the death of Lambardar (Tek Singh). Pursuant to the process initiated by the authorities to fill up the said post, appellant and respondent No.4 submitted their respective claims. Although, Assistant Collector 2nd Grade (Naib Tehsildar)

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and Assistant Collector 1st Grade (Tehsildar), recommended the candidature of respondent No.4, but the Sub-Divisional Magistrate, Sunam, disagreed with their recommendations and instead recommended appellant (Baghel Singh) for appointment. Upon a consideration of the matter, the District Collector reached a conclusion that although respondent-Jasvir Singh was more educated, and possessed more land, but since an FIR No. 46 dated 10.2.2004, under Sections 452/379/506/354/342/294/427/323/148 IPC, was registered against him, and even though he was subsequently acquitted, he was not suitable for appointment. Whereas, the appellant was a grandson of the deceased Lambardar and there was nothing adverse against him on record. Accordingly, vide order dated 15.9.2014, the District Collector appointed him as Lambardar.

The appeal preferred by respondent-Jasvir Singh against the said order was dismissed by the Divisional Commissioner, vide order dated 8.11.2016, who concurred with the findings of the District Collector. However, vide order dated 29.10.2018, the Financial Commissioner allowed the revision petition filed by respondent-Jasvir Singh and, while setting aside the appointment of the appellant, remitted the matter to the District Collector, for reconsideration. For, he was of the view that though an FIR No. 46 dated 10.2.2004, as indicated above, was registered against him, but that was inconsequential, as subsequently the cancellation report in the said FIR was accepted by the Sub-Divisional Judicial Magistrate, Sunam. It was in this background, the appellant approached this Court, vide a writ petition, referred to above, which has since been dismissed. Thus, this appeal.

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

Before we proceed further, it, indeed, would be expedient to

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refer to the conclusion recorded by the learned Single Judge, on a due analysis of the matter in issue, which reads thus:-

“A perusal of the order dated 15.09.2014 (Annexure P-1) passed by the District Collector, Sangrur, would show that what has primarily weighed upon the mind of the Collector is registration of FIR No.46 dated 10.02.2004 against private respondent No.4-Jasvir Singh. It is an admitted position that in the said case after investigation, a cancellation report was submitted to the Court on 12.07.2004, which according to the counsel for the petitioner, was based upon a compromise. He was, in pursuance to that cancellation report submitted, discharged by the competent Court in the year 2004. The process for appointment to the post of Lambardar was initiated on 29.08.2013, which is after a period of nine years and, therefore, private respondent No.4 could not have been punished for something in which no finding has adversely come against him, especially in the light of the discharge order. The District Collector, therefore, has wrongly proceeded to hold that merely because a FIR has been registered against respondent No.4, he was not a candidate worth consideration vis-a-vis the petitioner, who had no case registered against him. The other aspects with regard to the discharge has not been taken into consideration as with the passing of the order of discharge, the said registration of the FIR, cannot be taken adversely against respondent No.4 in any manner. The Financial Commissioner has rightly proceeded to rely upon the judgments, which have been

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passed by this Court dealing with the aspect of registration of a criminal case against a person, who ultimately is either discharged or acquitted and the consequences thereof. The order as has been passed by the Financial Commissioner (Appeals) is based on proper appreciation of the facts and circumstances of the case and the flaw which has been pointed out in the order passed by the Collector is purely a perversity which has crept in because of misreading of the fact of registration of the FIR in view of the law settled by this Court referred to in the order of the Financial Commissioner.

Ex facie, the aspect that formed basis of rejection of the candidature of respondent-Jasvir Singh was that he was involved in a criminal case. It is not disputed either that the FIR against respondent (Jasvir Singh) was registered on 10.2.2004, i.e. 9 years prior to the initiation of the process for appointment of Lambardar on 29.8.2013. Not just that, vide order dated 12.7.2004, the Sub-Divisional Judicial Magistrate, Sunam, accepted the cancellation report in the said FIR, and the matter was closed. Respondent (Jasvir Singh) was never put to trial and was instead discharged by the competent court. Further, in reference to the decision of this Court in **Talwinder Singh Vs. Financial Commissioner, Punjab (DB) 2012 (2) L.A.R. 3 P&H**, the Financial Commissioner had observed that registration of a criminal case against a candidate in which he was acquitted prior to the date the applications were invited for appointment as Lambardar could not be taken into consideration. That being the position, the only and the inevitable conclusion that could be reached: to remit the matter to the District Collector for re-consideration of the claim of the parties afresh.

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In the wake of the above, we too are dissuaded to interfere with the order order dated 29.10.2018, passed by the Financial Commissioner (Appeals), as also the impugned order and judgment, rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

May 16, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: YES/NO